MONTANA LEGISLATIVE HISTORY

Chapter 429 1995

Bill HB 518 S_____ Original bill & history ✓ C

H. Committee on Business & Labor

Hearing Date(s) 2/15 ___C

ex 2/16 ___C

_____ ___C

_____ ___C

Date Out _____ ___C

S. Committee on Business & Industry

Hearing Date(s) 3/14 ___C

ex 3/22 ___C

_____ ___C

_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

3/06	HEARING		
3/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/24	2ND READING DO PASS MOTION FAILED	43	55

HB 518 INTRODUCED BY TUSS, ET AL.

ESTABLISH UNIFORM PROCEDURES FOR LICENSING, DISCIPLINE, AND GENERAL REGULATION OF PROFESSIONS AND OCCUPATIONS REGULATED BY LICENSING BOARDS ADMINISTRATIVELY ATTACHED TO DEPARTMENT OF COMMERCE

2/11	INTRODUCED		
2/11	FIRST READING		
2/11	REFERRED TO BUSINESS & LABOR		
2/15	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED	98	0
2/20	3RD READING PASSED	100	0
	TRANSMITTED TO SENATE		
2/21	FIRST READING		
2/21	REFERRED TO BUSINESS & INDUSTRY		
3/14	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/29	2ND READING CONCURRED AS AMENDED	50	0
3/30	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS CONCURRED	93	5
4/05	3RD READING AMENDMENTS CONCURRED	98	0
4/08	SIGNED BY SPEAKER		
4/10	SIGNED BY PRESIDENT		
4/10	TRANSMITTED TO GOVERNOR		
4/13	SIGNED BY GOVERNOR		

CHAPTER NUMBER 429
EFFECTIVE DATE: 04/13/95—SECTIONS 19, 21, & 134, FOR DRAFTING RULES THAT WILL BE ADOPTED ON OR AFTER 10/01/95.
EFFECTIVE DATE: 10/01/95—SECTIONS 1-18, 20, & 22-133 EFFECTIVE FOR ALL OTHER PURPOSES ON 10/01/95.

HB 519 INTRODUCED BY BRAINARD, ET AL.

PROVIDE THAT THE STATE, RATHER THAN COUNTIES, PAY COSTS ASSOCIATED WITH CIVIL COMMITMENT OF THE SERIOUSLY MENTALLY ILL

BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

2/11	INTRODUCED
2/11	FIRST READING
2/11	REFERRED TO APPROPRIATIONS
2/13	FISCAL NOTE REQUESTED
2/18	FISCAL NOTE RECEIVED
2/20	FISCAL NOTE PRINTED
3/20	HEARING
3/21	TABLED IN COMMITTEE
3/24	MISSED TRANSMITTAL DEADLINE FOR 67TH DAY
	DIED IN COMMITTEE

HB 520 INTRODUCED BY FUCHS

GENERALLY REVISE LAWS RELATING TO LIVESTOCK BY CLASSIFYING OSTRICHES, RHEAS, AND EMUS AS LIVESTOCK

2/11	INTRODUCED

House BILL NO. 518

INTRODUCED BY Miller, Ivan, Hertel, Hayne, Lambert, Larson, McGee, Forbes, Benedict, Anderson, Cole, Garrett, Cocchiarella, Thomas, Weldon, Beck, Masolo

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING UNIFORM PROCEDURES FOR THE LICENSING, DISCIPLINE, AND GENERAL REGULATION OF PROFESSIONS AND OCCUPATIONS REGULATED BY LICENSING BOARDS ADMINISTRATIVELY ATTACHED TO THE DEPARTMENT OF COMMERCE; ELIMINATING THE STATE LICENSE REQUIREMENT FOR EMPLOYMENT AGENCIES AND POLYGRAPH EXAMINERS; AMENDING SECTIONS 37-1-101, 37-1-121, 37-1-131, 37-3-309, 37-3-313, 37-3-323, 37-3-403, 37-4-307, 37-4-402, 37-4-406, 37-5-307, 37-6-302, 37-6-303, 37-6-304, 37-6-311, 37-7-101, 37-7-302, 37-7-303, 37-7-321, 37-7-606, 37-8-409, 37-8-431, 37-9-101, 37-9-203, 37-9-302, 37-9-304, 37-9-305, 37-10-304, 37-11-303, 37-11-304, 37-11-308, 37-12-201, 37-12-307, 37-12-322, 37-13-306, 37-15-102, 37-15-202, 37-15-308, 37-16-202, 37-16-301, 37-16-407, 37-17-202, 37-17-306, 37-17-307, 37-18-202, 37-18-303, 37-18-305, 37-18-307, 37-19-301, 37-19-306, 37-19-401, 37-19-702, 37-20-302, 37-20-403, 37-22-304, 37-23-103, 37-23-202, 37-23-205, 37-24-202, 37-24-308, 37-25-307, 37-26-201, 37-26-403, 37-27-105, 37-28-201, 37-28-202, 37-28-203, 37-29-201, 37-29-303, 37-29-306, 37-29-403, 37-30-301, 37-30-305, 37-31-322, 37-32-305, 37-34-201, 37-34-305, 37-40-203, 37-40-304, 37-47-307, 37-50-203, 37-50-314, 37-50-317, 37-51-204, 37-51-306, 37-51-311, 37-53-211, 37-53-302, 37-54-105, 37-54-210, 37-54-211, 37-54-302, 37-54-310, 37-54-311, 37-60-202, 37-60-301, 37-60-312, 37-60-411, 37-65-306, 37-66-307, 37-67-202, 37-67-320, 37-68-201, 37-68-310, 37-68-312, 37-71-212, AND 37-71-213, MCA; REPEALING SECTIONS 37-3-322, 37-4-306, 37-4-321, 37-4-323, 37-4-324, 37-4-404, 37-5-303, 37-5-304, 37-5-311, 37-6-310, 37-7-203, 37-7-304, 37-7-305, 37-7-311, 37-7-607, 37-7-608, 37-7-710, 37-8-407, 37-8-417, 37-8-430, 37-8-433, 37-8-441, 37-8-442, 37-9-303, 37-9-311, 37-10-204, 37-10-303, 37-10-308, 37-10-311, 37-11-202, 37-11-307, 37-11-309, 37-11-320, 37-11-321, 37-12-303, 37-12-321, 37-13-305, 37-13-311, 37-13-312, 37-13-313, 37-13-314, 37-14-304, 37-14-321, 37-15-305, 37-15-309, 37-15-321, 37-16-406, 37-16-411, 37-16-414, 37-17-304, 37-17-311, 37-17-318, 37-18-304, 37-18-311, 37-19-305, 37-19-311, 37-19-312, 37-19-316, 37-19-404, 37-20-409, 37-22-306, 37-22-311, 37-22-312, 37-23-204, 37-23-207, 37-23-211, 37-23-212, 37-24-305, 37-24-307, 37-24-309, 37-25-306, 37-26-404, 37-26-408, 37-26-409, 37-26-410, 37-27-213, 37-27-216, 37-28-206, 37-28-210, 37-28-301, 37-29-311, 37-29-312,

37-29-313, 37-29-321, 37-30-306, 37-30-309, 37-30-502, 37-31-306, 37-31-307, 37-31-332, 37-32-303, 37-32-310, 37-34-304, 37-34-306, 37-34-308, 37-40-303, 37-40-311, 37-47-341, 37-47-342, 37-47-343, 37-47-346, 37-50-321, 37-50-322, 37-50-336, 37-51-206, 37-51-321, 37-51-322, 37-51-604, 37-51-606, 37-53-302, 37-53-501, 37-53-502, 37-53-503, 37-54-401, 37-54-402, 37-54-406, 37-54-417, 37-60-212, 37-60-307, 37-60-308, 37-60-321, 37-60-322, 37-62-101, 37-62-102, 37-62-201, 37-62-202, 37-62-203, 37-62-204, 37-62-205, 37-62-206, 37-62-207, 37-62-208, 37-62-209, 37-62-212, 37-62-213, 37-62-301, 37-62-302, 37-62-303, 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323, 37-67-312, 37-67-313, 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309, 37-69-320, 37-69-322, 39-5-101, 39-5-102, 39-5-103, 39-5-104, 39-5-105, 39-5-201, 39-5-202, 39-5-203, 39-5-204, 39-5-205, 39-5-206, 39-5-207, 39-5-208, 39-5-209, 39-5-301, 39-5-302, 39-5-303, 39-5-304, 39-5-305, 39-5-306, 39-5-307, 39-5-308, 39-5-309, 39-5-310, 39-5-311, 39-5-312, 39-5-401, 39-5-402, 39-5-403, 39-5-404, 39-5-405, AND 39-5-406, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is necessary for this bill because, although the bill deletes numerous grants of rulemaking authority in numerous sections of Title 37, the bill contains a single section allowing professional and occupational licensing boards to adopt rules. The purpose of replacing the numerous rulemaking authority grants with a single grant, as is the purpose with the rest of the bill, is to standardize the law in an attempt to reduce the number of rules and reduce variations in the rules from occupation to occupation.

The legislature takes note of the large number of bills proposed by and affecting professional and occupational licensing boards in Montana. A uniform licensing and disciplinary process needs to be established to permit the department of commerce and administratively attached licensing boards to administer the professional and occupational regulatory programs in a manner that is responsive to the public's needs. The public interest will be served by establishing uniform administrative provisions for these regulated professions and occupations that are designed to reduce the number of statutes and rules and variations in statutes and rules between professions or occupations and to promote public awareness of and access to the regulation of professions and occupations. It is the intent of the legislature to strengthen and consolidate disciplinary and licensure procedures for the licensed professions and occupations by

providing a uniform disciplinary, licensing, and regulatory act, with standardized procedures for regulation, the purpose of which is to assure the public of the adequacy of competence and conduct in the regulated professions and occupations.

The rules should provide for adequate due process for licensed persons involved in disciplinary proceedings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 20] is to establish uniform guidelines for the licensing and regulation of professions and occupations under the jurisdiction of professional and occupational licensing boards governed by [sections 1 through 20].

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 20], the following definitions apply:

(1) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is administratively attached to the department as provided in 2-15-121.

(2) "Complaint" means a written allegation filed with a board that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(3) "Department" means the department of commerce.

(4) "Inspection" means the periodic examination of premises, equipment, or procedures or of a practitioner by the department to determine whether the practitioner's profession or occupation is being conducted in a manner consistent with the public health, safety, and welfare.

(5) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a written complaint or other information before a board, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the board;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether a board should seek an injunction.

(6) "License" means permission granted under a chapter of this title to engage in or practice at a

specific level in a profession or occupation, regardless of the specific term, such as permit, certificate, recognition, or registration, used for the permission.

(7) "Profession" or "occupation" means a profession or occupation regulated by a board.

NEW SECTION. **Section 3. Scope.** [Sections 1 through 20] govern the licensure, the practice and unauthorized practice, and the discipline of professions and occupations governed by this title unless otherwise provided by statutes relating to a specific board and the profession or occupation it regulates.

NEW SECTION. **Section 4. Licensure of out-of-state applicants.** A board shall issue a license to practice without examination to a person licensed in another state if the board determines that the other state's license standards at the time of application to this state are substantially equivalent to the standards in this state and that there is no reason to deny the license under the laws of this state governing the profession or occupation. The license may not be issued until the board receives verification from the state or states in which the person is licensed that the person is currently licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or impairment.

NEW SECTION. **Section 5. Temporary practice permits.** (1) A board shall issue a temporary practice permit to a person licensed in another state that has licensing standards substantially equivalent to those of this state if the board determines that there is no reason to deny the license under the laws of this state governing the profession or occupation. The person may practice under the permit until a license is granted or until a notice of proposal to deny a license is issued. The permit may not be issued until the board receives verification from the state or states in which the person is licensed that the person is currently licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or impairment.

(2) A board shall issue a temporary practice permit to a person seeking licensure in this state who has met all licensure requirements other than passage of the licensing examination. The permit is valid until the person either fails the first license examination for which the person is eligible following issuance of the permit or passes the examination and is granted a license.

NEW SECTION. **Section 6. Continuing education.** A board may require licensees to participate in

flexible, cost-efficient, effective, and geographically accessible continuing education.

NEW SECTION. **Section 7. Board authority.** (1) A board may:

(a) hold hearings as provided in [sections 1 through 20];

(b) issue subpoenas and administer oaths in connection with investigations and disciplinary proceedings under [sections 1 through 20]. Subpoenas may be enforced as provided in 2-4-104.

(c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure in connection with an investigation, hearing, or proceeding held under [sections 1 through 20];

(d) compel attendance of witnesses and the production of documents. Subpoenas may be enforced as provided in 2-4-104.

(e) assign board members to a department screening panel that determines whether there is reasonable cause to believe that a licensee has violated a statute or rule justifying disciplinary proceedings. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.

(f) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license holder, impose a sanction provided by this chapter.

(2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding its licensees and license applicants.

NEW SECTION. **Section 8. Department authority.** The department may:

(1) employ investigative, administrative, clerical, and legal staff necessary to administer [sections 1 through 20];

(2) conduct investigations and inspections, issue subpoenas for the attendance of witnesses and the production of documents, administer oaths, and take depositions in the course of conducting investigations and inspections. Subpoenas may be enforced as provided in 2-4-104.

(3) establish a screening panel composed of department employees designated by the department and board members designated by a board before which a complaint is submitted under [section 9]. The designated employees may provide only technical assistance, information, and advice. The board members on the screening panel shall determine by majority vote whether an investigation is necessary and whether

there is reasonable cause to believe that a licensee or license applicant has committed unprofessional conduct or has failed to qualify for licensure.

(4) issue a notice to and pursue action, before the person's licensing board, against a person after a finding of reasonable cause under subsection (3).

NEW SECTION. **Section 9. Unprofessional conduct -- complaint -- investigation -- immunity.** (1) A person, government, or private entity may submit a written complaint to the department charging a licensee or license applicant with a violation of [sections 1 through 20] and specifying the grounds for the complaint.

(2) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have committed a violation of [sections 1 through 20], the department may investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation. A person or private entity, but not a government entity, filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint.

NEW SECTION. **Section 10. Notice -- request for hearing.** (1) If a reasonable cause determination is made pursuant to [section 8] that a violation of [sections 1 through 20] has occurred, a notice must be prepared by department legal staff and served on the alleged violator by certified mail to the current address on file with the board.

(2) A licensee or license applicant shall give the board the licensee's or applicant's current address and any change of address within 30 days of the change.

(3) The notice must state that the licensee or license applicant may request a hearing to contest the charge or charges. A request for a hearing must be in writing and received in the offices of the department within 20 days after service of the notice. Failure to request a hearing constitutes a default on the charge or charges, and the board may enter a decision on the basis of the facts available to it.

NEW SECTION. **Section 11. Hearing -- adjudicative procedures.** The procedures in Title 2, chapter 4, governing adjudicative proceedings before agencies; the Montana Rules of Civil Procedure; and the Montana Rules of Evidence govern a hearing under [sections 1 through 20]. A board has all the powers

and duties granted by Title 2, chapter 4.

NEW SECTION. **Section 12. Findings of fact -- order -- report.** (1) If the board decides, following a hearing or on default, that a violation of [sections 1 through 20] occurred, the department shall prepare and serve the board's findings of fact and an order as provided in Title 2, chapter 4. If the licensee or license applicant is found not to have violated [sections 1 through 20], the department shall prepare and serve the board's findings of fact and an order of dismissal of the charges.

(2) The department may report the issuance of a notice and final order to:

(a) the person or entity who brought to the department's attention information that resulted in the initiation of the proceeding;

(b) appropriate public and private organizations that serve the profession or occupation; and

(c) the public.

NEW SECTION. **Section 13. Sanctions -- stay -- costs -- stipulations.** (1) Upon a decision that a licensee or license applicant has violated [sections 1 through 20] or is unable to practice with reasonable skill and safety due to a physical or mental condition or upon stipulation of the parties as provided in subsection (3), the board may issue an order providing for one or any combination of the following sanctions:

(a) revocation of the license;

(b) suspension of the license for a fixed or indefinite term;

(c) restriction or limitation of the practice;

(d) satisfactory completion of a specific program of remedial education or treatment;

(e) monitoring of the practice by a supervisor approved by the disciplining authority;

(f) censure or reprimand, either public or private;

(g) compliance with conditions of probation for a designated period of time;

(h) payment of a fine not to exceed $1,000 for each violation. Fines must be deposited in the state general fund.

(i) denial of a license application;

(j) refund of costs and fees billed to and collected from a consumer.

(2) A sanction may be totally or partly stayed by the board. To determine which sanctions are

appropriate, the board shall first consider the sanctions that are necessary to protect or compensate the public. Only after the determination has been made may the board consider and include in the order any requirements designed to rehabilitate the licensee or license applicant.

(3) The licensee or license applicant may enter into a stipulated agreement resolving potential or pending charges that includes one or more of the sanctions in this section. The stipulation is an informal disposition for the purposes of 2-4-603.

(4) A board may, following a final decision resulting in discipline, recover all of the board's reasonable costs of the proceeding from the disciplined person if the board finds that the licensee or license applicant acted in bad faith in challenging the disciplinary action. Costs recovered must be deposited in the board's state special revenue account.

(5) A licensee shall surrender a suspended or revoked license to the board within 24 hours after receiving notification of the suspension or revocation by mailing it or delivering it personally to the board.

NEW SECTION. **Section 14. Appeal.** A person who is disciplined or denied a license may appeal the decision to the district court as provided in Title 2, chapter 4.

NEW SECTION. **Section 15. Reinstatement.** A licensee whose license has been suspended or revoked under [sections 1 through 20] may petition the board for reinstatement after an interval set by the board in the order. The board may hold a hearing on the petition and may deny the petition or order reinstatement and impose terms and conditions as provided in [section 13]. The board may require the successful completion of an examination as a condition of reinstatement and may treat a licensee whose license has been revoked or suspended as a new applicant for purposes of establishing the requisite qualifications of licensure.

NEW SECTION. **Section 16. Enforcement of fine.** (1) If payment of a fine is included in an order and timely payment is not made as directed in the order, the board may enforce the order for payment in the district court of the first judicial district.

(2) In a proceeding for enforcement of an order of payment of a fine, the order is conclusive proof of the validity of the order of payment and the terms of payment.

NEW SECTION. **Section 17. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license applicant governed by this chapter:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government, whether the action is on appeal, under judicial review, or has been satisfied.

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) addiction to or dependency on a habit-forming drug or controlled substance as defined in Title 50, chapter 32, as a result of illegal use of the drug or controlled substance;

(11) use of a habit-forming drug or controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally;

(12) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(13) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including

but not limited to informed consent, protective gear, or cessation of practice;

(14) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(15) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(16) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(17) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(18) engaging in or soliciting sexual conduct with a client during the existence of or during the 6 months following the end of a professional or occupational relationship with the client that involves giving health care to or a fiduciary responsibility toward the client or, if a psychotherapeutic relationship existed with the client, at any time during or after the existence of the professional relationship;

(19) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards.

NEW SECTION. **Section 18. Practice without license -- investigation of complaint -- injunction -- penalties.** (1) The department shall investigate complaints concerning practice by an unlicensed person of a profession or occupation for which a license is required by this title. In the investigation of the complaints, the department has the powers specified in [section 8].

(2) A board may file an action to enjoin a person from practicing, without a license, a profession or occupation for which a license is required by this title.

NEW SECTION. **Section 19. Violation of injunction -- penalty.** A person who violates an injunction issued under [section 18] shall pay a civil penalty, as determined by the court, of not more than $25,000. Fifty percent of the penalty must be deposited in the general fund of the county in which the injunction is issued, and 50% must be deposited in the state general fund.

NEW SECTION. **Section 20. Rules.** A board may adopt rules:

(1) under the guidelines of [section 6], regarding continuing education and establishing the number of hours required each year, the methods of obtaining education, education topics, and carrying over hours to subsequent years;

(2) regarding practice limitations for temporary practice permits issued under [section 5] and designed to ensure adequate supervision of the practice until all qualifications for licensure are met and a license is granted;

(3) regarding qualifications for inactive license status that may require compliance with stated continuing education requirements and may limit the number of years a person may remain on inactive status without having to reestablish qualifications for licensure;

(4) regarding maintenance and safeguarding of client funds or property possessed by a licensee and requiring the funds or property to be maintained separately from the licensee's funds and property; and

(5) defining acts of unprofessional conduct, in addition to those contained in [section 17], that constitute a threat to public health, safety, or welfare and that are inappropriate to the practice of the profession or occupation.

Section 21. Section 37-1-101, MCA, is amended to read:

"**37-1-101. Duties of department.** In addition to the provisions of 2-15-121, the department of commerce ~~shall~~ may:

(1) provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, taking applications for licenses, issuing and denying licenses granted by the boards, renewing licenses, disciplining licensees, registering, taking minutes of board meetings and hearings, and filing;

(2) standardize and keep in Helena all official records of the boards;

(3) make arrangements and provide facilities in Helena for the meetings, hearings, and examinations

of each board or elsewhere in the state if requested by the board;

(4) administer and grade examinations required by each board or by law for licensing, unless the board determines that experts or professionals are necessary to administer or grade a particular examination;

(5) ~~at the request of a board,~~ investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the department;

(6) assess the costs of the department to the boards on an equitable basis as determined by the department;

(7) adopt rules ~~establishing expiration dates of licenses for barbers, barbershops, professional engineers, professional land surveyors, nursing home administrators, optometrists, plumbers, social workers, speech-language pathologists, audiologists, and radiologic technologists~~ setting expiration, renewal, and termination dates for licenses."

Section 22. Section 37-1-121, MCA, is amended to read:

"**37-1-121. Duties of director.** In addition to ~~his~~ the powers and duties under 2-15-112 and 2-15-121, the director of commerce shall:

(1) at the request of a party, appoint an impartial ~~legal counsel~~ hearing examiner to conduct hearings before each board within the department whenever any board holds a contested case hearing. The ~~legal counsel appointed shall see that~~ hearing examiner shall conduct hearings ~~are conducted~~ in a proper and legal manner.

~~(2) whenever the department conducts an investigation of a complaint of illegal or unethical conduct of a member of a particular profession or occupation as prescribed in 37-1-101(5) and if requested by the appropriate board, appoint an impartial member of that profession or occupation to assist the department in its investigation. The member so appointed may not be a member of the board having jurisdiction over the particular profession or occupation.~~

~~(3)~~(2) hire all personnel to perform the administrative, legal, and clerical functions of the department for the boards. Boards within the department do not have ~~no~~ authority to hire personnel.

~~(4)~~(3) approve all contracts and expenditures by boards within the department. ~~No~~ A board within the department may not enter into a contract or expend funds without the approval of the director."

Section 23. Section 37-1-131, MCA, is amended to read:

"**37-1-131. Duties of boards.** Each board within the department shall:

(1) set and enforce standards and rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within its jurisdiction;

(2) sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within its jurisdiction. The hearings ~~shall~~ must be conducted by ~~legal counsel~~ a hearing examiner when required under 37-1-121(1).

(3) suspend, revoke, or deny a license of a person who the board determines, after a hearing as provided in subsection (2), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system in violation of the provisions of Title 39, chapter 71 or 72;

(4) pay to the department its pro rata share of the assessed costs of the department under 37-1-101(6);

(5) consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion. The board may not expand a program if the board does not have adequate money and appropriation authority available."

Section 24. Section 37-3-309, MCA, is amended to read:

"**37-3-309. Application for license.** (1) A person desiring a license to practice medicine shall make application to the department, verified by oath and in a form prescribed by the board. The application ~~shall~~ must be accompanied by the license fee and documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by this chapter apart from an examination required by the board. The burden of proof is on the applicant, but the ~~board~~ department may make an independent investigation to determine whether the applicant possesses the qualifications and whether the applicant has committed unprofessional conduct. ~~At the board's request, the~~ The applicant shall provide necessary authorizations for the release of records and information pertinent to the ~~board's information~~ department's inquiry.

(2) An applicant for a license on the basis of an examination shall file ~~his~~ the application at least 60 days prior to the announced date of the examination. If the applicant is not at the time of filing ~~his~~ the application a graduate of but is then in attendance at an approved medical school, ~~he~~ the applicant shall

submit to the department, instead of a diploma or other required evidence of graduation, a written statement from the dean or other authorized representative of the approved medical school that the applicant will receive ~~his~~ a diploma at the end of the then-current school term. The applicant may not be granted a certificate until ~~he~~ the applicant has filed with the department ~~his~~ a diploma or other acceptable evidence of graduation from the approved medical school and has complied with the requirements of subsection (1) ~~of this section, and no~~. A license may not be issued ~~to him~~ until ~~he~~ the applicant has satisfied the board that ~~he~~ the applicant has completed at least 1 year of an approved internship or its equivalent and has otherwise met the requirements for the issuance of a license under this chapter."

Section 25. Section 37-3-313, MCA, is amended to read:

"37-3-313. Annual registration fees -- failure to pay -- limiting authority to impose registration fees. (1) In addition to the license fees required of applicants, a licensed physician actively practicing medicine in this state shall pay each year to the department an annual registration fee as prescribed by the board. ~~If a person licensed to practice medicine absents himself from the state for a period of 1 or more years or does not engage in active practice in this state, he may continue his license in good standing by payment each year of a fee prescribed by the board or, at the discretion of the board, he may be reinstated on the payment of a fee prescribed by the board for each year of absence or inactive practice.~~

(2) The annual payments for registration ~~shall~~ must be made prior to April 1, and a receipt acknowledging payment of the annual registration fee ~~shall~~ must be issued by the department. The department shall mail registration notices at least 60 days before the registration is due.

(3) In case of default in the payment of the annual registration fee by a person licensed to practice medicine who is actively practicing medicine in this state, ~~his~~ the underlying certificate to practice medicine may be revoked by the board on 30 days' notice given to the delinquent of the time and place of considering the revocation. A registered or certified letter addressed to the last-known address of the person failing to comply with the requirements of annual registration, as the address appears on the records of the department, constitutes sufficient notice of intention to revoke ~~his~~ the underlying certificate. ~~No~~ A certificate may not be revoked for nonpayment if the person authorized to practice medicine, and notified, pays the annual registration fee before or at the time fixed for consideration of revocation, together with a delinquency penalty prescribed by the board. The department may collect the dues by an action at law.

(4) ~~No~~ A registration or license fee may not be imposed on a licensee under this chapter by a

municipality or any other subdivision of the state."

Section 26. Section 37-3-323, MCA, is amended to read:

"**37-3-323. Revocation or suspension of license ~~--probation--fine--disposition of fine~~.** (1) The ~~board~~ department may make an investigation whenever it is brought to its attention that there is reason to suspect that a person having a license or certificate to practice medicine in this state:

(a) is mentally or physically unable to safely engage in the practice of medicine, has procured a license to practice medicine by fraud or misrepresentation or through mistake, has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent, or has a condition that impairs the person's intellect or judgment to the extent that it incapacitates the person for the safe performance of professional duties;

(b) has been guilty of unprofessional conduct;

(c) has practiced medicine with a suspended or revoked license;

(d) has had a license to practice medicine suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(e) while under probation has violated its terms.

(2) The investigation must be for the purpose of determining the probability of the existence of these conditions or the commission of these offenses and may, upon order of the board, include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and scrutinize the hospital records and reports of a licensee as part of the examination, and copies must be released to the board on written request. ~~If the board has reasonable cause to believe that this probability exists, the department shall mail to the person's last address of record with the department a specification of the charges, together with a written notice of the time and place of the hearing on the charges, advising that the person may be present and may be represented by counsel if the person wants to offer evidence and be heard in the person's own defense. The time fixed for the hearing may not be less than 30 days from the date of mailing the notice.~~

~~(3) A person, including a member of the board, may file a written complaint with the department against a person having a license to practice medicine in this state charging that person with the commission of any of the offenses set forth in 37-3-322 or with any of the offenses or conditions set forth~~

~~in subsection (1) of this section. The complaint must set forth a specification of the charges. When the complaint is filed, the department shall mail a copy to the person accused at the person's last address of record with the department, together with a written citation of the time and place of the hearing on it.~~

~~(4) At the hearing, the board shall adopt a resolution finding the accused guilty or not guilty of the matters charged. If the board finds that the offenses or conditions referred to in 37-3-322 or subsection (1) of this section do not exist with respect to the person or if the person is found not guilty, the board shall dismiss the charges or complaint. If the board finds that the offenses or conditions referred to in 37-3-322 or in subsection (1) of this section do exist and the person is found guilty, the board shall:~~

~~(a) revoke the person's license;~~

~~(b) suspend the person's right to practice for a period not exceeding 1 year;~~

~~(c) suspend its judgment of revocation on the terms and conditions to be determined by the board;~~

~~(d) place the person on probation;~~

~~(e) impose a fine, not to exceed $500 an incident; or~~

~~(f) take any other action in relation to disciplining the person as the board in its discretion considers proper.~~

~~(5) In a case of revocation, suspension, or probation, the department shall enter in its records the facts of the action and of subsequent action of the board with respect to it.~~

~~(6) On the expiration of the term of suspension, the licensee must be reinstated by the board if the suspended person furnishes the board with evidence that the person is then of good moral character and conduct, is restored to good health, and has not practiced medicine in this state during the term of suspension. If the evidence fails to establish to the satisfaction of the board that the holder is then of good moral character and conduct or restored to good health or if the evidence shows the person has practiced medicine in this state during the term of suspension, the board shall revoke the license, using the notice and hearing procedure provided in subsection (2). The revocation is final and absolute.~~

~~(7)~~(3) If a person holding a license to practice medicine under this chapter is by a final order or adjudication of a court of competent jurisdiction adjudged to be mentally incompetent or seriously mentally ill or addicted to the use of addictive substances, the person's license may be suspended by the board. The suspension continues until the licensee is found or adjudged by the court to be restored to reason or cured or until the person is discharged as restored to reason or cured and the person's professional competence has been proven to the satisfaction of the board.

~~(8) A fine imposed under this section must be deposited in the general fund.~~

~~(9) The remedies and method of enforcement of this part, as provided for in this section, are concurrent and in addition to the other remedies provided in this part.~~"

Section 27. Section 37-3-403, MCA, is amended to read:

"**37-3-403. Report of prohibition or limitation on practice by hospital.** Each hospital or health care facility ~~which~~ that prohibits or limits the privilege of a physician to practice medicine within that facility shall report ~~such~~ the action to the state board of medical examiners within 30 days after the action is taken ~~if the action is based in whole or in part upon the commission of one or more of the offenses or the existence of one or more of the conditions set forth in 37-3-322 or 37-3-323(1)~~. The report ~~shall~~ must include the reason or reasons for the prohibition or limitation."

Section 28. Section 37-4-307, MCA, is amended to read:

"**37-4-307. Annual renewal fee -- default ~~--active, inactive status -- continuing education~~ -- local fees prohibited.** (1) Every licensed dentist shall pay each year a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. Notice of the change in the amount of renewal fees must be given to each dentist registered in this state by the department.

(2) Payment of the annual renewal fee must be made ~~prior to March 1 of~~ each year on or before the date set by department rule, and a license renewal must be issued by the department. A reasonable late fee ~~is~~ must be required by the department if the annual renewal fee is not timely paid ~~before March 1~~.

~~(3) The board may adopt rules governing requirements for demonstrating continued competency for license renewal.~~

~~(4) (a) The board may reclassify an active status license to inactive status for a licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dentistry because of physical disability or retirement.~~

~~(b) An individual who wishes to maintain a Montana license but does not maintain a resident practice must be licensed in the inactive status.~~

~~(c) Application to convert an inactive status license to an active status license must be made in accordance with rules of the board. The application to convert to active status must accompany the submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license~~

~~was inactivated, satisfactory evidence of competence must be submitted to the board before an active status license may be issued.~~

~~(5) (a)~~(3) (a) In case of default in payment of the annual renewal fee by a licensee, ~~his~~ the license must be revoked by the board. The board shall give the licensee 30 days' notice of its proposed revocation action. The notice must be sent by certified letter addressed to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the revocation will be considered.

(b) If the licensee pays the renewal fee, plus a reasonable late fee set by the board, prior to the time set for revocation, the license may not be revoked.

(c) A license revoked for nonpayment of the renewal fee may be reinstated within 5 years of revocation if:

(i) renewal fees are paid for each year they were unpaid, plus a late penalty fee for each year;

(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dentistry regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dentistry since the last payment of a renewal fee under this chapter; and

(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.

~~(6)~~(4) ~~Every~~ Each dentist shall give the board notice of any change in name, address, or status within 30 days of the change.

~~(7)~~(5) ~~No~~ A unit of local government, including those exercising self-government powers, may not impose a license fee on a dentist licensed under this chapter."

Section 29. Section 37-4-402, MCA, is amended to read:

"**37-4-402. License -- examination.** (1) The department may issue licenses for the practice of dental hygiene to qualified applicants to be known as dental hygienists.

(2) Except as provided ~~in 37-4-404~~ by rules adopted under [section 20], ~~no~~ a person may not engage in the practice of dental hygiene or practice as a dental hygienist in this state until ~~he~~ the person has passed an examination approved by the board under rules it considers proper and has been issued a license by the department.

(3) Applicants for licensure shall take and pass an examination in order to be licensed. The examination shall consist of a written part and a practical or clinical part. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental

examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.

(4) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing ~~any such~~ examination procedures.

(5) Applicants for licensure shall submit an application, which ~~shall~~ must include, when required:

(a) certification of successful completion of the national board written examination;

(b) certification of successful completion of a regional board practical examination;

(c) two affidavits of good moral character;

(d) certificate of graduation from a board-approved dental hygiene school;

(e) an examination fee commensurate with costs and set by the board;

(f) a licensure fee commensurate with costs and set by the board;

(g) a recent photograph of the applicant; and

(h) copies of all other state licenses that are held by the applicant.

(6) Applications must be submitted no less than 20 days prior to the jurisprudence examination. Applicants may not take the jurisprudence examination without first having completed and passed all other parts of the examination.

(7) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass ~~his~~ the first examination, if otherwise qualified, may take a subsequent examination on payment of a fee commensurate with costs and set by the board.

(8) The board is authorized to adopt necessary and reasonable rules governing application procedures."

Section 30. Section 37-4-406, MCA, is amended to read:

"**37-4-406. Annual renewal fee -- default ~~--active, inactive status -- continuing education~~ -- revocation of license -- local fees prohibited.** (1) ~~Every~~ Each licensed dental hygienist shall pay each year a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. ~~The renewal must be for either active or inactive status, as defined by rules of the board.~~

(2) Payment of the annual renewal fee must be made ~~prior to March 1 of each year~~ on or before

the date set by department rule, and a license renewal must be issued by the department. A reasonable late fee ~~is~~ must be required if the annual renewal fee is not timely paid ~~before March 1~~.

~~(3) The board may adopt rules governing requirements for demonstrating continued competency for license renewal.~~

~~(4) (a) The board may reclassify an active status license to inactive status for a licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dental hygiene because of physical disability or retirement.~~

~~(b) An individual who wishes to maintain a Montana license but does not maintain a resident practice must be licensed in the inactive status.~~

~~(c) Application to convert an inactive status license to an active status license must be made in accordance with rules of the board. The application to convert to active status must accompany the submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license was inactivated, satisfactory evidence of competence must be submitted to the board before an active status license may be issued.~~

~~(5)~~(3) In case of default in payment of the renewal fee by any licensee, the board must revoke the license.

(a) The board shall give the licensee 30 days' notice of its proposed revocation action. The notice must be sent by certified mail to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the revocation will be considered.

(b) The payment of the renewal fee on or before the time set for revocation, with a reasonable late fee set by the board, excuses the default.

(c) A license revoked for nonpayment of the renewal fee may be reinstated within 5 years of revocation if:

(i) renewal fees are paid for each year they were unpaid, plus a late penalty for each year;

(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dental hygiene regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dental hygiene since the last payment of a renewal fee under this chapter; and

(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.

~~(6)~~(4) ~~Every~~ Each dental hygienist shall give the board notice of any change in name, address, or status within 30 days of the change.

~~(7)~~(5) The board may, after a hearing, revoke or suspend the license of a dental hygienist for violating this chapter.

~~(8)~~(6) ~~No~~ A unit of local government, including those exercising self-government powers, may not impose a license fee on a dental hygienist licensed under this chapter."

Section 31. Section 37-5-307, MCA, is amended to read:

"**37-5-307. Renewal fee.** (1) A person holding a certificate to practice under this chapter and who is in active practice in this state shall, on or before ~~April 1 of each year~~ the date set by department rule, pay a renewal fee prescribed by the board to the department~~, and a person holding a certificate to practice under this chapter who is not in active practice shall before April 1 of each year pay a renewal fee prescribed by the board to the department~~. ~~The~~ At least 2 weeks before the renewal date, the department shall ~~before March 15 of each year~~ send a notice to each person holding a valid certificate to practice under this chapter and from whom a fee is due stating that the fee is due.

(2) The certificate to practice under this chapter automatically becomes void when the renewal fee is not paid at the time named. However, the board may reinstate a practitioner whose certificate has lapsed on payment of back renewal fees or on payment of a maximum fee prescribed by the board if the lapsed fees exceed the maximum fee."

Section 32. Section 37-6-302, MCA, is amended to read:

"**37-6-302. Qualifications for licensure -- exemptions from examination -- temporary licenses.** (1) ~~Persons~~ A person who ~~wish~~ wishes to begin the practice of podiatry in this state shall make application, on a form authorized by the board and furnished by the department, for a license to practice podiatry.

(2) ~~No~~ A person may not be granted a license to practice podiatry in this state unless ~~he~~ the person:

(a) is of good moral character as determined by the board;

(b) is a graduate of a school of podiatry approved by the board;

(c) has completed at least 1 year of postgraduate training or has had equivalent experience or training approved by the board;

(d) has made a personal appearance before the board;

(e) has passed an examination administered by the national board of podiatry examiners and is a

diplomate of the national board of podiatry examiners; and

(f) has obtained a score of at least 75% on an examination administered by the board.

(3) The board may waive the requirements described in subsections (2)(d) and (2)(f).

~~(4) A license without written examination may be granted to podiatrists of other states maintaining equal statutory requirements for the practice of podiatry and extending the same reciprocal privilege to this state if they have had a valid license and practiced for at least 2 preceding years in that state prior to filing for reciprocal privilege and by payment of a fee prescribed by the board to the department.~~

~~(5) The board may authorize the department to issue a temporary license to practice podiatry in appropriate cases, but no person may be granted a temporary license unless he:~~

~~(a) is of good moral character as determined by the board;~~

~~(b) is a graduate of a school of podiatry approved by the board;~~

~~(c) has completed at least 1 year of postgraduate training or has had equivalent experience or training approved by the board; and~~

~~(d) has made a personal appearance before at least one member of the board.~~

~~(6) The board may authorize the department to issue a temporary or permanent license subject to probation or other conditions or limitations imposed by the board or may refuse to issue a license if the applicant has engaged in unprofessional conduct or is otherwise unqualified.~~"

Section 33. Section 37-6-303, MCA, is amended to read:

"**37-6-303. Examination -- subjects -- fees -- reexamination.** (1) A person who is not exempt from examination ~~under 37-6-302~~ and ~~desiring~~ who desires a license to practice podiatry ~~shall~~ must be examined in the following subjects: anatomy, chemistry, dermatology, physical diagnosis, materia medica, pathology, physiology, therapeutics, orthopedics, histology, bacteriology, pharmacy, neurology, surgery, shoe therapy, physiotherapy, roentgenology, and podiatric medicine. The minimum passing score is 70% for each subject tested and an average of 75% for all subjects tested.

(2) An examination and license fee prescribed by the board ~~shall~~ must be paid to the department.

(3) An applicant failing the examination and being refused a license is entitled within 6 months of the refusal to a reexamination, but one reexamination exhausts ~~his~~ the privilege under the original examination. An additional fee ~~shall~~ must be paid to the department for a reexamination."

Section 34. Section 37-6-304, MCA, is amended to read:

"37-6-304. Designations on license -- recording -- renewal -- display. (1) A license issued under this chapter is designated as a "registered podiatrist's license" or a "temporary podiatrist's license".

(2) Licenses must be recorded by the department the same as other medical licenses.

(3) Licenses must be renewed annually, on a date set by the ~~board~~ department.

(4) A license renewal fee set by the board must be paid annually on a date set by the ~~board~~ department.

(5) The department shall mail renewal notices no later than 60 days prior to the annual renewal date ~~set by the board under subsection (3)~~.

(6) If the annual renewal fee is not paid on or before the renewal date ~~set by the board under subsection (3)~~, the board may revoke the licensee's certificate after giving 30 days' notice to the licensee. A certified letter addressed to the delinquent licensee's last-known address as it appears on the records of the department constitutes notice of intent to revoke the certificate. ~~No~~ A certificate may not be revoked for nonpayment of a renewal fee if the licensee pays the annual renewal fee plus a penalty prescribed by the board on or before the date fixed for revocation.

(7) A license revoked for nonpayment of the annual renewal fee may be reissued only on original application and payment of an additional fee prescribed by the board.

(8) Licenses must be conspicuously displayed by podiatrists at their offices or other places of practice."

Section 35. Section 37-6-311, MCA, is amended to read:

"37-6-311. Refusal or revocation of license -- investigation ~~-- reinstatement~~. (1) After notice and opportunity for a hearing, the board may deny, revoke, or refuse to renew a license to practice podiatry if the consensus of the board is that an applicant is not of good moral character or has engaged in unprofessional conduct. ~~The department shall notify the applicant of the board's intent to deny, revoke, or refuse to renew a license by mailing a letter to the applicant's last-known address stating the board's intent and setting a time and place for a hearing. If the applicant fails without cause to appear at the hearing or if the board determines that the applicant is not entitled to a license, the board shall deny, revoke, or refuse to renew the applicant's license.~~

(2) The ~~board~~ department may investigate whenever it is brought to its attention that a licensed

podiatrist:

(a) is mentally or physically unable to engage safely in the practice of podiatry;

(b) has procured ~~his~~ the license by fraud, misrepresentation, or through error;

(c) has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent;

(d) has a condition that impairs ~~his~~ the licensee's intellect or judgment to the extent that it incapacitates ~~him~~ the licensee in the safe performance of ~~his~~ professional duties;

(e) has been found guilty of unprofessional conduct;

(f) has practiced podiatry while ~~his~~ the license was suspended or revoked;

(g) has had ~~his~~ the license suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(h) while under probation has violated its terms.

(3) The investigation ~~shall~~ must be for the purpose of determining the probability that the alleged conditions exist or that the alleged offenses were committed. ~~The~~ Upon order of the board, the investigation may include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interest of the public that this evaluation be secured. The board may examine the hospital records and reports of a licensee as part of the examination, and copies shall be released to the board on written request. ~~If the board has reasonable cause to believe that the alleged conditions exist or that the alleged offenses were committed, the department shall mail to the person at his last known address a specification of the charges against him, together with a written notice of the time and place of the hearing on such charges, advising him that he may be present in person and by counsel if he so desires to offer evidence and be heard in his defense. The time fixed for the hearing may not be less than 30 days from the date of mailing the notice.~~

~~(4) A person, including a member of the board, may file a written complaint with the department against a person having a license to practice podiatry in this state charging him with the commission of any of the offenses set forth in 37-6-310 or with any of the offenses or conditions set forth in subsection (1) or (2) of this section. The complaint shall set forth a specification of the charges. When the complaint is filed, the department shall mail a copy to the person complained against, at his last known address, together with a written citation of the time and place of the hearing on the complaint.~~

~~(5) At the hearing the board shall adopt a resolution finding the person complained against guilty~~

~~or not guilty of the matters charged. If the board finds that the offenses or conditions referred to in 37-6-310 or subsection (1) or (2) of this section do not exist with respect to the person complained against or if he is found not guilty, the board shall dismiss the charges or complaint. If the board finds that the offenses or conditions referred to in 37-6-310 or in subsection (1) or (2) of this section do exist or the person is found guilty, the board shall:~~

~~(a) revoke his license;~~

~~(b) suspend his right to practice for a period not exceeding 1 year;~~

~~(c) suspend its judgment of revocation on the terms and conditions to be determined by the board;~~

~~(d) place him on probation; or~~

~~(e) take any other action in relation to disciplining him as the board in its discretion considers proper.~~

~~(6) In a case of revocation, suspension, or probation, the department shall enter in its records the facts of the action and of subsequent measures taken by the board with respect to that action.~~

~~(7) On the expiration of the term of suspension, the licensee shall be reinstated by the board if he furnishes the board with evidence that he is then of good moral character and conduct or restored to good health and that he has not practiced podiatry in this state during the term of suspension. If the evidence fails to establish to the satisfaction of the board that the holder is then of good moral character and conduct or restored to good health or if the evidence shows he has practiced podiatry in this state during the term of suspension, the board shall revoke the license at a hearing held in accordance with the notice and procedure provided in subsection (1). The revocation is final.~~

~~(8)~~(4) If a person holding a license to practice podiatry under this chapter is by a final order or adjudication of a court of competent jurisdiction determined to be mentally incompetent, seriously mentally ill, or addicted to the use of narcotics, ~~his~~ the license may be suspended by the board. The suspension continues until the licensee is found by the court to be restored to reason or cured or until ~~he~~ the licensee is discharged as restored to reason or cured and ~~his~~ the licensee's professional competence has been proven to the satisfaction of the board."

Section 36. Section 37-7-101, MCA, is amended to read:

"37-7-101. Definitions. Unless the context requires otherwise, in parts 1 through 3 of this chapter, the following definitions apply:

(1) "Board" means the board of pharmacy provided for in 2-15-1843.

(2) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(3) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.

~~(4) "Continuing education" means professional pharmaceutical postgraduate education in the following areas:~~

~~(a) the socioeconomic and legal aspects of health care;~~

~~(b) the properties and actions of drugs and dosage forms; and~~

~~(c) the etiology, characteristics, and therapeutics of the disease state.~~

~~(5)~~(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

~~(6) (a)~~(5) (a) "Drug" means:

(i) articles recognized in the official United States Pharmacopoeia/National Formulary or a supplement ~~to them~~;

(ii) articles intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in ~~man~~ people or other animals;

(iii) articles, ~~(~~other than food~~)~~, intended to affect the structure or function of the body of ~~man~~ an individual or other ~~animals~~ animal; and

(iv) articles intended for use as a component of an article specified in subsection (i), (ii), or (iii).

(b) "Drug" does not include devices or their components, parts, or accessories.

~~(7)~~(6) "Intern" means a natural person licensed by the department to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons under the supervision of a registered and licensed pharmacist.

~~(8)~~(7) "Medicine" means a remedial agent which has the property of curing, preventing, treating, or mitigating diseases or which is used for this purpose.

~~(9)~~(8) "Person" includes an individual, partnership, corporation, or association.

~~(10)~~(9) "Pharmacist" means a natural person licensed by the department to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons and who may affix to ~~his~~ the person's name the term "R.Ph.".

~~(11)~~(10) "Pharmacy" means an established place registered by the department of commerce in which prescriptions, drugs requiring a prescription, medicines, chemicals, and poisons are compounded, dispensed, vended, or sold.

~~(12)~~(11) "Pharmacy technician or auxiliary" means an individual who assists a pharmacist in the practice of pharmacy pursuant to an approved utilization plan.

~~(13)~~(12) "Poison" means a substance which, when introduced into the system, either directly or by absorption, produces violent, morbid, or fatal changes or which destroys living tissue with which it comes in contact.

~~(14)~~(13) "Prescription" means an order given individually for the person for whom prescribed, directly from the prescriber to the furnisher or indirectly to the furnisher, by means of an order signed by the prescriber and bearing the name and address of the prescriber, ~~his~~ the prescriber's license classification, the name of the patient, the name and the quantity of the drug or drugs prescribed, the directions for use and the date of its issue. These stipulations apply to both written and telephoned prescriptions.

~~(15)~~(14) "Utilization plan" means a plan under which a pharmacist may use the services of a pharmacy technician or auxiliary in the practice of pharmacy to perform tasks that:

(a) do not require the exercise of the pharmacist's independent professional judgment; and

(b) are verified by the pharmacist.

~~(16)~~(15) "Wholesale" means a sale for the purpose of resale."

Section 37. Section 37-7-302, MCA, is amended to read:

"**37-7-302. Examination -- qualifications -- fees -- reciprocity.** (1) The department shall give reasonable notice of examinations by mail to known applicants. The department shall record the names of persons examined, together with the grounds on which the right of each to examination was claimed, and also the names of persons registered by examination or otherwise.

(2) The fee for an examination ~~shall~~ must be set by the board at a figure commensurate with costs~~, which~~. The fee may in the discretion of the board be returned to applicants not taking the examination.

(3) To be entitled to examination as a pharmacist, the applicant ~~shall~~ must be of good moral character and ~~shall~~ must have graduated and received the first professional undergraduate degree from the school of pharmacy of the university of Montana or from an accredited pharmacy degree program that has been approved by the board. However, ~~no~~ an applicant may not receive a registered pharmacist's license

until ~~he~~ the applicant has complied with the internship requirements established by the board.

~~(4) The board may in its discretion authorize the department to grant registration without examination to a pharmacist licensed by a board of pharmacy or a similar board of another state which accords similar recognition to licensees of this state if the requirements for registration in the other state are, in the opinion of the board, equivalent to the requirements of this chapter. The fee for registration by reciprocity shall be prescribed by the board.~~

~~(5)~~(4) ~~Every~~ Each person licensed and registered under this chapter ~~shall~~ must receive from the department an appropriate certificate attesting the fact, which ~~shall~~ must be conspicuously displayed at all times in ~~his~~ the place of business."

Section 38. Section 37-7-303, MCA, is amended to read:

"**37-7-303. Annual renewal fee.** ~~(1)~~ A person licensed and registered by the department shall annually pay to the department on or before ~~June 30~~ the date set by department rule a renewal of registration fee prescribed by the board. A default in the payment of a renewal fee after the date it is due increases the renewal fee as prescribed by the board. It is unlawful for a person who refuses or fails to pay the renewal fee to practice pharmacy in this state. A certificate and renewal expires at the time prescribed, not later than 1 year from its date. A defaulter in a renewal fee may be reinstated within 1 year of the default without examination on payment of the arrears and compliance with ~~the continuing education provisions of this chapter~~ other requirements prescribe by law.

~~(2) The board may charge an additional fee for such license renewal to be used in administering the continuing education provisions of this chapter.~~"

Section 39. Section 37-7-321, MCA, is amended to read:

"**37-7-321. Certified pharmacy license ~~— suspension or revocation~~.** (1) The board shall provide for the original certification and annual renewal by the department of every pharmacy doing business in this state. On presentation of evidence satisfactory to the board and on application on a form prescribed by the board and on the payment of an original certification fee prescribed by the board, the department shall issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to pharmacies operated by registered pharmacists qualified under this chapter. The annual renewal fee for a pharmacy ~~shall~~ must be set by the board. Any default in the payment of ~~such~~ the renewal fee after the

date the same is due ~~shall increase~~ increases the renewal fee as prescribed by the board. The license must be displayed in a conspicuous place in the pharmacy for which it is issued and expires on ~~June 30 following the date of issue~~ the date set by department rule. It is unlawful for a person to conduct a pharmacy, use the word "pharmacy" to identify ~~his~~ the business, or use the word "pharmacy" in advertising unless a license has been issued and is in effect.

(2) The board may ~~suspend, revoke,~~ impose discipline or deny or refuse to renew a pharmacy license~~:~~

~~(a) obtained by false representation or fraud;~~

~~(b) when the pharmacy for which the license is issued is kept open for the transaction of business without a pharmacist in charge;~~

~~(c) when the person to whom the license is granted has been convicted of:~~

~~(i) a violation of parts 1 through 3 of this chapter; or~~

~~(ii) a violation of the Federal Food, Drug, and Cosmetic Act (Title 21, chapter 9, U.S.C.); chapter 2 or 7 of Title 37, chapter 9 or 10 of Title 45, or chapter 31 or 32 of Title 50, MCA; or rules adopted under such act or chapters;~~

~~(d) when the person to whom the license is granted is a natural person whose pharmacist license has been revoked; or~~

~~(e) when the pharmacy is conducted in violation of parts 1 through 3 of this chapter.~~

~~(3) Before a license can be revoked, the holder is entitled to a hearing by the board~~ for reasons specified in and subject to conditions specified in Title 37, chapter 1."

Section 40. Section 37-7-606, MCA, is amended to read:

"37-7-606. Issuance of licenses. The license for wholesale drug distributors is effective ~~from April 1 to March 31 of the following year~~ during the 12-month period specified by department rule. An application for renewal of a license must be mailed to each licensee ~~on or before March 1~~ at least 30 days prior to the renewal date, and if the renewal application and the fee are not mailed by ~~March 31~~ the renewal date, the license is void upon its expiration date."

Section 41. Section 37-8-409, MCA, is amended to read:

"37-8-409. Midwifery -- when professional nurse may practice. ~~(1)~~ A person licensed under

~~37-8-406 or 37-8-407~~ this chapter who holds a certificate in nurse-midwifery from the American college of nurse-midwives may practice midwifery upon approval by the board of an amendment to ~~her~~ the license granting a certificate of nurse-midwifery. The board shall grant a certificate of nurse-midwifery to a person who submits written verification of certification by the American college of nurse-midwives and who meets ~~such~~ other qualification requirements as the board may prescribe.

~~(2) The board may give temporary approval to practice nurse midwifery for up to 4 months to a person who has taken the American college of nurse midwives national certification examination, pending receipt of official notification of the results of the examination.~~"

Section 42. Section 37-8-431, MCA, is amended to read:

"**37-8-431. Renewal of license.** (1) The license of a person licensed under this chapter must be annually renewed on the date set by department rule. ~~Before December 1 of each year~~ At least 30 days prior to the renewal date, the department shall mail an application form for renewal of license to ~~every~~ each person to whom a license was issued or renewed during the year. The applicant shall carefully complete and subscribe the application form and return it to the department with a renewal fee prescribed by the board on or before ~~January 1~~ the renewal date.

(2) The board may increase or decrease the annual license fee so as to maintain in the state special revenue fund at all times an adequate amount to be used for the purpose of administering, policing, and enforcing the provisions of Title 37, chapter 1, and this chapter. On receipt of the application and fee, the department shall verify the accuracy of the application against its record and from other sources the board considers reliable and issue to the applicant a certificate of renewal ~~for the current year beginning January 1 and expiring December 31 following~~. The certificate of renewal renders the holder a legal practitioner of nursing for the period stated in the certificate of renewal.

(3) A licensee who allows ~~his~~ the license to lapse by failing to renew the license may be reinstated by the board on satisfactory explanation for the failure to renew license and on payment of the current renewal fee prescribed by the board.

(4) A person practicing nursing during the time following the date ~~his~~ the license has expired is an illegal practitioner and is subject to the penalties provided for violations of this chapter.

(5) The board may establish a reasonable late fee for licensees who fail to renew their license by ~~January 1 as required in subsection (1)~~ the renewal date."

Section 43. Section 37-9-101, MCA, is amended to read:

"**37-9-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of nursing home administrators provided for in 2-15-1845.

(2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

~~(3) "Inactive nursing home administrator" means an individual who has been licensed in this state as a nursing home administrator and whose license has not been revoked or suspended but who is not actively engaged in nursing home administration.~~

~~(4)~~ (3) "Long-term care facility" means any skilled nursing facility, nursing home, or intermediate care facility as defined for licensing purposes under state law or the rules for long-term care facilities of the department of health and environmental sciences, whether proprietary or nonprofit, including facilities owned or administered by the state or a political subdivision.

~~(5)~~(4) "Nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of a long-term care facility, whether the individual has an ownership interest in the facility and whether ~~his~~ the individual's functions and duties are shared with one or more other individuals."

Section 44. Section 37-9-203, MCA, is amended to read:

"**37-9-203. Duties of board.** The board shall:

(1) develop, impose, and enforce standards ~~which~~ that must be met by individuals in order to register and receive a license as a nursing home administrator, designed to ensure that nursing home administrators are individuals of good character and otherwise suitable and, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(2) develop and apply appropriate techniques, including examination and investigation, for determining whether individuals meet the standards;

(3) authorize the department to register and issue licenses to individuals, after application of the techniques, determined to meet the standards;

(4) establish and implement procedures designed to ensure that individuals registered and licensed as nursing home administrators will, during the period that they serve, comply with the requirements of the standards;

(5) conduct a continuing study and investigation of nursing home administrators within the state with a view to the improvement of the standards imposed for the licensing of administrators and of procedures and methods for the enforcement of the standards with respect to nursing home administrators;

~~(6) conduct or cause to be conducted one or more courses of instruction and training sufficient to meet the requirements of this chapter and make provisions for the conduct of these courses and their accessibility to residents of this state, unless it finds that there are a sufficient number of courses conducted by others within this state to meet the needs of the state; instead, the board may approve courses conducted within and outside of this state sufficient to meet the education and training requirements of this chapter;~~

~~(7) prescribe or approve continuing education courses~~."

Section 45. Section 37-9-302, MCA, is amended to read:

"**37-9-302. Department to license pursuant to board rules -- nontransferability -- temporary permit.** (1) The department shall register and license nursing home administrators under the rules adopted by the board.

(2) A nursing home administrator's registration and license is not transferable and is valid until surrendered for cancellation, suspended, or revoked for violation of this chapter or any other laws or rules relating to the proper administration and management of a long-term care facility.

~~(3) If the board determines that preliminary qualifications set forth in 37-9-301 will have been met before the next examination, it may authorize the department to issue a temporary permit for a period of 180 days or until the scores of the next examination are announced. No temporary permit may be issued to an applicant after the date of the first examination for which he is eligible.~~"

Section 46. Section 37-9-304, MCA, is amended to read:

"**37-9-304. Fees.** (1) Each person who applies for licensure, whether by waiver, examination, or reciprocation, shall pay a fee prescribed by the board at the time of application.

(2) Each person licensed as a nursing home administrator shall pay a license fee in an amount fixed by the board. A license ~~shall expire~~ expires each year on a date set by department rule ~~of the department~~ and ~~shall~~ must be renewable annually upon timely payment of the license fee.

~~(3) Each person registered as an inactive nursing home administrator shall be required to pay a~~

~~registration fee in the amount fixed by the board. An inactive registration shall expire each year on a date established by rule of the department and shall be renewable annually upon timely payment of the inactive registration fee.~~

~~(4)~~ (3) The fee for issuing a duplicate license ~~shall~~ must be fixed by the board."

Section 47. Section 37-9-305, MCA, is amended to read:

"**37-9-305. Renewal of registration and license.** ~~Every~~ Each holder of a nursing home administrator's registration and license shall renew it annually by payment of the required fee for the next subsequent year prior to the expiration date of ~~his~~ the currently valid registration and license. Renewals of registrations or licenses ~~shall~~ must be granted as a matter of course~~, providing the holder has completed a continuing education course prescribed or approved by the board;~~. ~~however~~ However, if the board finds, after due notice and hearing, that the applicant has acted or failed to act in ~~such~~ a manner or under circumstances ~~as~~ that would constitute grounds for ~~suspension or revocation of a registration and license~~ discipline, it ~~shall~~ may not issue the renewal."

Section 48. Section 37-10-304, MCA, is amended to read:

"**37-10-304. Course in use of diagnostic and therapeutic drugs required.** (1) (a) In addition to the requirements of 37-10-302 ~~or 37-10-303, whichever is applicable~~, each person desiring to commence the practice of optometry shall satisfactorily complete a course prescribed by the board of medical examiners with consultation and approval by the board of optometrists with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions.

(b) A person presently licensed to practice optometry who wishes to employ diagnostic agents must satisfactorily complete a course referred to in subsection (1)(a) and must pass an examination as provided in subsection (1)(d).

(c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the national commission on accrediting or the United States commissioner of education. The course must also be approved by the board.

(d) The board shall provide for an examination in competency in the use of diagnostic drugs and

shall issue a certificate to those applicants who pass ~~such~~ the examination.

(2) (a) ~~In addition to the requirements of 37-10-302 or 37-10-303, whichever is applicable, each~~ Each person desiring to commence the practice of optometry shall:

(i) pass an examination, of the international association of boards of examiners in optometry, on the diagnosis, treatment, and management of ocular disease; or

(ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular diseases. The course and examination must be conducted by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the national commission on accrediting or the United States commissioner of education. The course and examination must also be approved by the board.

(b) A person presently licensed to practice optometry who wishes to employ therapeutic pharmaceutical agents must meet the requirements of subsection (2)(a).

(c) The board shall:

(i) provide for an examination in competency in the diagnosis, treatment, and management of therapeutic pharmaceutical agents; and

(ii) issue a certificate to an applicant who passes ~~such~~ the examination."

Section 49. Section 37-11-303, MCA, is amended to read:

"**37-11-303. Qualifications of applicants for license.** To be eligible for a license as a physical therapist, an applicant must:

(1) be of good moral character and at least 18 years of age;

(2) have graduated from an accredited school of physical therapy approved by the board; and

(3) ~~either:~~

~~(a)~~ pass to the satisfaction of the board a written examination prescribed by the board and, if considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical therapist~~; or~~

~~(b) be entitled to a license without examination under 37-11-307~~."

Section 50. Section 37-11-304, MCA, is amended to read:

"**37-11-304. Application for examination -- fee.** (1) ~~Unless entitled to a license under 37-11-307,~~

~~a~~ A person who desires to be licensed as a physical therapist shall apply to the department in writing, on a form furnished by the department~~. He~~ and shall:

(a) embody in that application evidence under oath, satisfactory to the board, of ~~his possessing~~ having the qualifications preliminary to the examination required by 37-11-303; and

(b) pay to the department at the time of filing ~~his~~ the application a fee as established by the board by rule. The fee must be commensurate with the cost of the examination and its administration and must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

(2) Anyone failing to pass the required examination on ~~his~~ the first attempt is entitled to sit for a second examination and, if ~~he fails~~ the second examination is failed, to sit for a third examination."

Section 51. Section 37-11-308, MCA, is amended to read:

"**37-11-308. Annual renewal of license -- fee.** A licensed physical therapist shall~~, during January~~ on or before the date set by department rule, apply to the department for a renewal of ~~his~~ the license and pay a fee ~~which shall be~~ set by board rule. A license that is not renewed before ~~April every year~~ the renewal date automatically lapses. The board may, in its discretion, revive and renew a lapsed license on the payment of all past unpaid renewal fees or a late renewal fee."

Section 52. Section 37-12-201, MCA, is amended to read:

"**37-12-201. Organization of board -- meetings -- powers and duties.** (1) The board shall elect annually a president, vice president, and secretary-treasurer from its membership.

(2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at times and places as a majority of the board designates. A majority of the board constitutes a quorum.

(3) The board shall:

(a) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming within the scope of the board;

(b) adopt a seal that must be affixed to licenses issued;

(c) make a schedule of minimum educational requirements, which are without prejudice, partiality, or discrimination, as to the different schools of chiropractic;

(d) adopt rules necessary for the implementation, administration, continuation, and enforcement of this chapter. The rules must address but are not limited to license applications, form and display of

license, license examination format, criteria for and grading of examinations, disciplinary standards for licensees, and the registration of interns and preceptors.

~~(e) investigate complaints;~~

~~(f)~~ (e) make determinations of the qualifications of applicants under this chapter;

~~(g)~~ (f) administer the examination for licensure under this chapter;

~~(h)~~ (g) establish and collect fees, fines, and charges as provided in this chapter;

~~(i)~~ (h) issue, suspend, or revoke licenses under the conditions prescribed in this chapter; and

~~(j)~~ (i) certify that a chiropractor who meets the standards that the board by rule adopts is a qualified evaluator for purposes of 39-71-711.

(4) The department shall keep a record of the proceedings of the board, which ~~shall~~ must at all times be open to public inspection."

Section 53. Section 37-12-307, MCA, is amended to read:

"**37-12-307. Annual renewal of license -- fees ~~-- continuing education -- inactive status~~.** ~~(1)~~ A license expires on ~~September 1 of each year~~ the date set by department rule and ~~shall~~ must be renewed by the department on payment of a renewal fee, as set by the board, and the presentation of evidence satisfactory to the board that the licensee~~, in the year preceding the application for renewal, attended and successfully completed a postgraduate educational program for chiropractors approved by the board~~ qualifies for renewal. All applicants for renewal who have not paid the renewal fee ~~prior to October 1 of each year~~ on or before the renewal date shall pay an additional late fee prescribed by the board.

~~(2) The board shall by rule set standards for inactive status. It shall charge an annual fee for a license placed on inactive status.~~

~~(3) An inactive license may be reinstated to active status upon payment of a fee and completion of the continuing education requirements set by the board.~~"

Section 54. Section 37-12-322, MCA, is amended to read:

"**37-12-322. Investigation of complaints ~~-- discipline of licensees -- revocation or suspension of license~~.** (1) The ~~board~~ department may make an investigation whenever it is brought to its attention that there is reason to suspect that a person licensed to practice chiropractic:

(a) has a mental or physical condition such that ~~he~~ the person is unable to safely engage in the

practice of chiropractic;

(b) has been declared incompetent or seriously mentally ill by a court of competent jurisdiction and thereafter has not been declared competent or released from supervision;

(c) has procured ~~his~~ the license through mistake;

(d) has been guilty of unprofessional conduct;

(e) has practiced chiropractic while ~~his~~ the license was suspended or revoked;

(f) has while under probation violated its terms.

(2) The investigation ~~shall~~ must be for the purpose of determining the probability of the existence of these conditions or the commission of these offenses and may, upon order of the board, include requiring the person to submit to a physical or mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine the hospital records and reports of the licensee as part of the examination, and copies of these ~~shall~~ must be released to the board on written request. ~~If the board has reasonable cause to believe that this probability exists, the department shall mail to the person at his last address of record with the department, a specification of the charges against him, together with a written notice of the time and place of the hearing on such charges, advising him that he may be present in person and with counsel if he so desires to offer evidence and be heard in his defense. The time fixed for hearing may not be less than 30 days from the date of mailing the notice.~~

~~(3) Any person, including a member of the board, may file a sworn complaint with the department against a licensed chiropractor charging him with any of the offenses or conditions set forth in 37-12-321 or subsection (1) of this section, which complaint shall set forth a specification of the charges. When the complaint has been filed, the board may make an investigation as provided by this section or may proceed to hearing. The department shall mail a copy of the complaint to the person charged, together with notice of hearing as provided in subsection (2) of this section.~~

~~(4) After the hearing, the board shall adopt a resolution finding that the offenses charged have or have not been committed or that the conditions charged do or do not exist. If the finding is in the negative, the board shall dismiss the charges. If the finding is in the affirmative, the board shall:~~

~~(a) revoke the license;~~

~~(b) suspend the licensee's right to practice for a period not to exceed 1 year;~~

~~(c) suspend its judgment of revocation on terms and conditions determined by the board;~~

~~(d) place the licensee on probation;~~

~~(e) fine the licensee in an amount not to exceed $500 for each incident; or~~

~~(f) take any other disciplinary action which the board in its discretion considers proper.~~

~~(5) In cases of revocation, suspension, or probation, the department shall record the facts of the case and all actions of the board in relation thereto.~~

~~(6) On the expiration of a term of suspension, the licensee shall be reinstated by the board if he furnishes evidence, satisfactory to the board, that he is then of good moral character and conduct or restored to good health and that he has not practiced chiropractic during the term of suspension. If the evidence fails to establish such facts to the satisfaction of the board, the board shall proceed to hearing on revocation with notice as provided in subsection (2) of this section.~~

~~(7) Following a final determination resulting in any disciplinary action taken by the board under subsection (4), the board may recover from the disciplined party all reasonable costs of any proceeding, not to exceed $1,000, incurred for the purpose of the disciplinary action. Fines and costs recovered must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).~~"

Section 55. Section 37-13-306, MCA, is amended to read:

"**37-13-306. Annual renewal -- fee -- military exemption.** (1) The license to practice acupuncture must be renewed annually, on a date set by the ~~board~~ department, without examination and upon request of the licensee. The request for renewal must be on forms prescribed by the board and accompanied by a renewal fee prescribed by the board. The request and fee must be in the hands of the secretary of the board not later than the expiration date of the license.

(2) Immediately following the renewal date, the secretary shall notify all licensees from whom requests for renewal, accompanied by the renewal fee, have not been received that their licenses have expired and that they will be cancelled and revoked upon the records of the board unless a request for renewal and reinstatement, accompanied by the renewal fee and an additional fee prescribed by the board, is in the hands of the secretary within 30 days of the renewal date.

(3) If the licensee fails to renew within 30 days following the renewal date, the secretary of the board shall cancel and revoke upon its records all licenses that have not been renewed or reinstated as provided by this chapter and shall notify the licensees whose licenses are revoked of the action.

(4) A licensee who allows ~~his~~ the license to lapse by failing to renew or reinstate the license as

provided in this section may subsequently reinstate the license upon good cause shown to the satisfaction of the board and upon payment of all annual renewal fees then accrued plus an additional fee prescribed by the board for each year following the cancelling of the license.

(5) A person actively engaged in the military service of the United States and licensed to practice acupuncture as provided in this part is not required to pay the annual renewal fee or make application for renewal until the renewal date of the calendar year in which ~~he~~ the person returns from military service to civilian or inactive status."

Section 56. Section 37-15-102, MCA, is amended to read:

"37-15-102. Definitions. As used in this chapter, the following definitions apply:

(1) "ASHA" means the American speech-language and hearing association.

(2) "Association" means the Montana speech-language and hearing association.

(3) "Audiologist" means a person who practices audiology and who meets the qualifications set forth in this chapter. A person represents to the public that the person is an audiologist by incorporating in any title or description of services or functions that the person directly or indirectly performs the words "audiologist","audiology","audiometrist","audiometry","audiological","audiometrics","hearing clinician", "hearing clinic", "hearing therapist", "hearing therapy", "hearing center", "hearing aid audiologist", or any similar title or description of services.

(4) "Audiology aide" means any person meeting the minimum requirements established by the board of speech-language pathologists and audiologists who works directly under the supervision of a licensed audiologist.

(5) "Board" means the board of speech-language pathologists and audiologists provided for in 2-15-1849.

(6) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(7) "Practice of audiology" means rendering or offering to render a service in audiology to individuals or groups of individuals who have or are suspected of having hearing disorders. These services include:

(a) prevention, identification, measurement, testing, evaluation, prediction, consultation, habilitation, rehabilitation, instruction, and research;

(b) participating in hearing conservation and hearing aid and assistive listening device evaluation,

prescription, preparation, dispensing, and orientation;

(c) fabricating ear molds;

(d) providing auditory training and speech reading;

(e) conducting tests of vestibular function;

(f) evaluating tinnitus;

(g) planning, directing, conducting, or supervising programs that render or offer to render a service in audiology; and

(h) speech or language screening, limited to a pass/fail determination.

(8) "Practice of speech-language pathology" means rendering or offering to render a service in speech-language pathology to individuals or groups of individuals who have or are suspected of having communication disorders. These services include:

(a) prevention, identification, measurement, testing, evaluation, prediction, consultation, habilitation, and rehabilitation;

(b) determining the need for augmentative communication systems and providing training in the use of these systems;

(c) planning, directing, conducting, or supervising programs that render or offer to render a service in speech-language pathology;

(d) nondiagnostic pure-tone air conduction, tympanometry, and acoustic reflex screening, limited to a pass/fail determination;

(e) aural rehabilitation, which includes services and procedures for facilitating adequate receptive and expressive communication in individuals with hearing impairment;

(f) oral motor rehabilitation, which includes services and procedures for evaluating and facilitating face, lip, and tongue mobility and control;

(g) cognitive retraining, which includes services and procedures for evaluating and facilitating memory, attention, reasoning, processing, judgment, and other related areas in individuals with language impairment resulting from head injury, stroke, or other insult; and

(h) dysphagia therapy, which includes services and procedures for evaluating and facilitating swallowing and feeding in those individuals with swallowing disorders.

(9) "Speech-language pathologist" means a person who practices speech-language pathology and who meets the qualifications set forth in this chapter. A person represents to the public that the person is

a speech-language pathologist by incorporating in any title or description of services or functions that the person directly or indirectly performs the words "speech pathologist", "speech pathology", "speech correctionist", "speech corrections", "speech therapist", "speech therapy", "speech clinician", "speech clinic", "language pathologist", "language pathology", "voice therapist", "voice therapy", "voice pathologist", "voice pathology", "logopedist", "logopedics", "communicologist", "communicology", "aphasiologist", "aphasiology", "phoniatrist", "language therapist", "language clinician", or any similar title or description of services or functions.

(10) "Speech-language pathology aide" means a person meeting the minimum requirements established by the board who works directly under the supervision of a licensed speech-language pathologist.

~~(11) "Unethical conduct" means:~~

~~(a) the obtaining of a fee by fraud or misrepresentation;~~

~~(b) employing, directly or indirectly, any suspended or unlicensed person to perform any work covered by this chapter unless that person assumes the legal status of a supervised aide; or~~

~~(c) using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceiving, improbable, or untruthful.~~"

Section 57. Section 37-15-202, MCA, is amended to read:

"**37-15-202. Powers and duties of board and department.** (1) The board shall:

(a) administer, coordinate, and enforce the provisions of this chapter;

(b) evaluate the qualifications of each applicant for a license as issued under this chapter and supervise the examination of ~~such~~ applicants;

~~(c) investigate persons engaging in practices which allegedly violate the provisions of this chapter;~~

~~(d)~~ (c) conduct hearings and keep records and minutes as the board considers necessary to an orderly dispatch of business;

~~(e)~~ (d) adopt rules, including but not limited to those governing ethical standards of practice under this chapter;

~~(f)~~ (e) make recommendations to the governor and other state officials regarding new and revised programs and legislation related to speech-language pathology or audiology which could be beneficial to

the citizens of the state of Montana;

~~(g)~~ (f) cause the prosecution and enjoinder of all persons violating this chapter, by the complaints of its secretary filed with the county attorney in the county where the violation took place, and incur necessary expenses therefor;

~~(h)~~ (g) adopt a seal by which the board shall authenticate its proceedings.

(2) Copies of the proceedings, records, and acts of the board, signed by the ~~chairman~~ presiding officer or secretary of the board and stamped with the seal, ~~shall be~~ are prima facie evidence of the validity of ~~such~~ the documents.

(3) The board may make rules which are reasonable or necessary for the proper performance of its duties and for the regulation of proceedings before it.

(4) The department may employ persons it considers necessary to carry out the provisions of this chapter.

(5) The department shall prepare a report to the governor as required by law."

Section 58. Section 37-15-308, MCA, is amended to read:

"**37-15-308. Renewal.** (1) Each licensed speech-language pathologist or audiologist shall pay to the board the fee for the renewal of ~~his~~ the license according to rules adopted by the department.

(2) The department shall notify each person licensed under this chapter relative to the date of expiration of ~~his~~ the license and the amount of the renewal fee. This notice must be mailed to each licensed speech-language pathologist or audiologist at least 1 month before the expiration of the license.

(3) Renewal may be made at any time during the 60 days prior to the expiration date by application therefor. ~~A renewal application must be accompanied with documentation satisfactory to the board that the applicant has fulfilled his continuing educational requirements as provided in 37-15-309.~~

(4) Failure on the part of any licensed person to pay the renewal fee by the expiration date does not deprive ~~him~~ the person of the right to renew ~~his~~ the license, but the fee ~~shall~~ must be increased 10% for each month that the payment of the renewal fee is delayed after the expiration date. The maximum fee for delayed renewal ~~shall~~ may not exceed twice the normal renewal fee.

(5) Application for renewal following a lapse of 1 year or more ~~shall be~~ is subject to review by the board, and the applicant may be requested to complete an examination successfully if the board so determines.

(6) A suspended license is subject to expiration and may be renewed as provided in this section, but ~~such~~ the renewal does not entitle the licensee, while the license remains suspended, to engage in the licensed activity or in any other activity or conduct which violates the order or judgment by which the license was suspended.

(7) A license revoked on disciplinary grounds is subject to expiration, and it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated plus the delinquency fee, if any, accrued at the time of its revocation.

(8) A person who fails to renew ~~his~~ a license within 2 years after its expiration may not renew it, and it may not be restored, reissued, or reinstated ~~thereafter;. but such a~~ However, the person may reapply for and obtain a new license if ~~he~~ the person meets the requirements of this chapter."

Section 59. Section 37-16-202, MCA, is amended to read:

"**37-16-202. Powers and duties.** The powers and duties of the board are to:

(1) license persons who apply and are qualified to practice the fitting of hearing aids;

~~(2) establish a procedure to act as a grievance board to receive, investigate, and mediate complaints from any source concerning the activities of persons licensed under this chapter or their agents, whether licensed or not;~~

~~(3)~~ (2) suspend or revoke licenses under this chapter;

~~(4)~~ (3) designate the time and place for examining applicants for license and supervise and administer the examination;

~~(5)~~ (4) adopt rules necessary to carry out this chapter;

~~(6)~~ (5) require the periodic inspection and calibration of audiometric testing equipment and carry out periodic inspections of facilities of persons who practice the fitting or selling of hearing aids;

~~(7)~~ (6) prepare examinations required by the chapter;

~~(8)~~ (7) initiate legal action to enjoin from operation a person or corporation engaged in the sale, dispensing, or fitting of hearing aids in this state who is not licensed under this chapter;

~~(9)~~ .(8) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-403, 37-16-405, 37-16-407, and 37-16-408~~, 37-16-411, and 37-16-414~~. Rules adopted by the board may include but are not limited to rules defining the term "related devices" and other rules

necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-403, 37-16-405, 37-16-407, and 37-16-408~~, 37-16-411, and 37-16-414~~."

Section 60. Section 37-16-301, MCA, is amended to read:

"**37-16-301. Permanent place of business in state necessary -- records -- notice -- designation of licensee in charge.** (1) A person who is actively engaged in dispensing hearing aids and related devices as a business must have a permanent place of business in this state that will be opened to serve the public, having the necessary testing, fitting, and hearing aid accessories needed by the hard-of-hearing public in the wearing of hearing aids and related devices. All licensed hearing aid dispensers shall identify their permanent place of business in all advertising public notices and in all consumer correspondence, both written and verbal. More than one hearing aid dispenser licensee may work from a permanent place of business.

(2) The department shall keep a record of the places of practice of persons who hold regular licenses or trainee licenses. A notice required to be given by the board or department to a person who holds a regular or trainee license may be given by mailing it to ~~him~~ the person at the address last given ~~by him~~ to the department.

(3) All licensed hearing aid dispensers shall notify the board of any change of address within 30 days of the change. A trainee shall notify the board of any change of address within 10 days of the change.

(4) (a) When licensed hearing aid dispensers and trainees work at the same permanent place of business, the licensed hearing aid dispenser shall designate one licensed dispenser as the person in charge. There must be one licensed dispenser in charge at a permanent place of business.

(b) The licensed hearing aid dispenser in charge of a permanent place of business:

(i) is responsible and accountable under the disciplinary authority of the board for the conduct of trainees using that permanent place of business; and

(ii) has custody and control of the business records of that permanent place of business and is responsible for producing the records during an investigation conducted by the ~~board~~ department."

Section 61. Section 37-16-407, MCA, is amended to read:

"**37-16-407. Renewal of license -- fee ~~-- inactive status~~.** ~~(1)~~ A person who practices the fitting of hearing aids and related devices shall annually pay to the department a fee as set by the board for a

renewal of ~~his~~ the license. The fee must be fixed by the board to be commensurate with board costs in administering licensure and related board functions. The fee must be increased 10% for each month or major portion ~~thereof~~ of a month that the payment of the renewal fee is delayed after the expiration date. The maximum fee for a delayed renewal may not exceed twice the normal renewal fee as set by the board. A person applying for renewal whose license was suspended for failure to renew is required to submit to the examinations described in 37-16-403 as a condition of renewal for a 3-year period after suspension.

~~(2) Each applicant for license renewal shall submit evidence showing completion of 4 hours of continuing education completed during the preceding 12 months. The requirements of the continuing education programs are to be determined by the board by rule.~~

~~(3) (a) The board may set standards and fees for issuing licenses that designate inactive status.~~

~~(b) An inactive licensee may be reinstated to active practice if he:~~

~~(i) applies for reinstatement;~~

~~(ii) pays a fee set by the board; and~~

~~(iii) produces proof satisfactory to the board of completion of the continuing education requirements established by the board.~~"

Section 62. Section 37-17-202, MCA, is amended to read:

"**37-17-202. Powers.** (1) The board may make reasonable and necessary rules for the proper performance of its duties and for the regulation of proceedings before it.

(2) In addition to the other powers and duties set forth, the board may:

(a) revoke and suspend licenses;

(b) conduct hearings upon complaints concerning persons licensed under this chapter;

(c) cause the prosecution and enjoinder of all persons violating this chapter, by the complaint of its secretary signed with the county attorney, in the county where the violation took place and incur necessary expenses ~~therefor~~ for the prosecution; and

(d) study and review new developments in research, training, and the practice of psychology and make recommendations to the governor and other state officials regarding new and revised programs and legislation related to psychology which could be beneficial to the citizens of the state of Montana~~;~~

~~(e) adopt rules for the administration of a continuing education program, including but not limited to accrediting education programs and establishing the number of hours of continuing education required~~

~~for license renewal~~."

Section 63. Section 37-17-306, MCA, is amended to read:

"**37-17-306. Annual renewal.** (1) The license expires on ~~January 1 following~~ the date ~~of its issuance or renewal and is invalid thereafter~~ set by department rule. The department shall notify each person licensed under this chapter relative to the date of the expiration ~~of his license~~ and the amount of ~~his~~ the renewal fee. This notice ~~shall~~ must be mailed to each licensed psychologist at ~~his~~ the licensee's listed address at least 1 month before the expiration of the license.

(2) Renewal may be made by application during the 60 days prior to the expiration date. Failure on the part of a person licensed to pay ~~his~~ the renewal fee by the expiration date does not deprive ~~him~~ the person of the right to renew ~~his license~~, but the fee ~~shall~~ must be increased 10% for each month or major portion ~~thereof~~ of a month that the payment of the renewal fee is delayed after the expiration date. The maximum fee for delayed renewal may not exceed twice the normal renewal fee. Application for renewal following a lapse of 1 year or more will be subject to review by the board, and the applicant may be requested to complete an examination successfully if the board so determines.

~~(3) The board may charge an additional fee for license renewal to be used for administering the continuing education program established in 37-17-318.~~"

Section 64. Section 37-17-307, MCA, is amended to read:

"**37-17-307. Fees -- deposit of fees.** (1) The department shall collect the following fees, none of which is refundable:

(a) application fee;

(b) examination fee, an amount commensurate with the charge of the professional examination service and administrative costs of the department and as set by the board;

(c) certificate fee;

(d) renewal fee~~, including an amount sufficient to cover the costs of administering the continuing education program.~~

~~(2) Renewal certificates shall be secured annually and dated January 2~~.

~~(3)~~ (2) Fees received by the department ~~shall~~ must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6)."

Section 65. Section 37-18-202, MCA, is amended to read:

"**37-18-202. Powers of board and department -- examinations ~~-- prosecutions~~.** (1) The board may adopt rules and orders necessary for the performance of its duties, including but not limited to:

(a) ~~development of continuing professional education requirements and exceptions therefrom;~~

~~(b)~~ prescribing of forms for application for examination and license; and

~~(c)~~ (b) preparation of examinations.

(2) The department shall, subject to 37-1-101, supervise the examination of applicants for license to practice veterinary medicine, obtain the services of professional examination agencies instead of its own preparation of examinations, and grant and revoke licenses.

~~(3) The department may employ attorneys, subject to the approval of the attorney general, to assist county attorneys in prosecutions brought under this chapter in the respective district courts of the state or to assist the attorney general in representing the board before the supreme court.~~"

Section 66. Section 37-18-303, MCA, is amended to read:

"**37-18-303. Examination -- temporary permit pending examination.** (1) Subject to 37-1-101, the board shall by means of examination, either oral, written, or practical or a combination of oral, written, or practical as the board determines, ascertain the professional qualifications for license of applicants under this part. ~~An investigation under reciprocity arrangements may replace examination for licensees from other states under 37-18-304.~~ The department shall issue a license to all who are found to be, in the judgment of the board, competent to practice. A license may not be issued to a person who is not found by the examination or investigation to be competent and qualified.

(2) The examination ~~shall~~ must be held when determined necessary by the board, but not less frequently than once each year at a time and place specified by the board. The examination ~~shall~~ must cover theory and practice, pharmacology and therapeutics, animal sanitation, surgery, communicable diseases, and other subjects chosen by the board which are ordinarily included in the curriculum of a school of veterinary medicine recognized and approved by the American veterinary medical association.

(3) The department shall consecutively number applications received, note on each the disposition made of it, and preserve them for reference and shall number consecutively licenses issued.

(4) ~~Applicants must~~ An applicant is required to achieve a grade of 70% in order to obtain a license. An applicant who has failed an examination may apply to be reexamined at a subsequent examination and

shall pay another application fee commensurate with the costs of the examinations and set by the board and shall take another complete examination in all subjects.

~~(5) An applicant for examination may, in the discretion of the board, be given a temporary permit to practice veterinary medicine prior to taking the examination if the applicant is employed by and working under the supervision of and in the same office with a veterinarian licensed under this part. The temporary permit is valid only until the date of the next examination. Under no circumstances may a second temporary permit be issued to the same person. A temporary permit may not be issued to a person who has failed an examination given under this section.~~"

Section 67. Section 37-18-305, MCA, is amended to read:

"**37-18-305. License -- issuance and contents.** (1) The board shall, at the conclusion of a regular examination or after investigation, ~~under the reciprocity arrangements of 37-18-304~~ if in its judgment the applicant is qualified, authorize the department to issue a license to practice veterinary medicine.

(2) Every license granted ~~shall~~ must be issued under seal and ~~shall~~ must be signed by the president and secretary-treasurer of the board and ~~shall~~ must state that the licensee has given satisfactory evidence of fitness as to age, character, veterinary medical education, and other matters required by law and that after full examination, ~~or investigation under reciprocity arrangements, he~~ the licensee has been found qualified to practice."

Section 68. Section 37-18-307, MCA, is amended to read:

"**37-18-307. Renewal -- fee -- continuing education -- automatic renewal for military personnel.** (1) A person licensed to practice veterinary medicine in this state shall procure a certificate of registration from the department annually on or before ~~November 1 annually his~~ the date set by department rule ~~certificate of registration~~. The certificate ~~shall~~ must be issued by the department on the payment of a fee fixed by the board and on presentation of evidence satisfactory to the board that the licensee ~~has complied with continuing education requirements established by the board~~ qualifies for renewal. ~~The board may waive, relax, or suspend continuing education requirements or particular program requirements for applicants who cannot fulfill those requirements because of individual hardship. New licensees who secure licenses by examination shall be granted a renewal the first year without attending the educational programs. The certificate is prima facie evidence of the right of the holder to practice veterinary medicine in this state~~

~~during the time for which it is issued.~~

(2) Failure of a person licensed to procure a certificate of registration on or before ~~November 1, annually,~~ the date set by department rule constitutes a forfeiture of the license held by the person. A person who has ~~thus~~ forfeited ~~his~~ the license may have it restored ~~to him~~ by making written application for restoration within 1 year of the forfeiture, setting forth the reasons for failure to procure the certificate of registration at the time specified and accompanied by payment of the registration fee provided for in this section and an additional restoration fee as the board requires ~~and by presentation of evidence satisfactory to the board that he has fulfilled all continuing education requirements to the date of application for restoration~~. The person making application for restoration of license within 1 year of its forfeiture is not required to submit to examination.

(3) Notwithstanding any other provisions in this chapter, a person licensed who enters or is called to active duty by a branch of the armed services of the United States is entitled to receive automatic registration of ~~his~~ the license during the period of ~~his~~ active duty with the armed services. However, within 1 year after release or discharge from duty in the armed services ~~he~~ the person shall procure a certificate of renewal from the department and pay the regular fee. Failure to procure the certificate of renewal within 1 year after release or discharge is the equivalent of a failure to procure a certificate of registration before November 1 of any year, and the same forfeiture and restoration requirements apply.

(4) A person licensed shall at all times have ~~his~~ the person's residence and office address on file with the department."

Section 69. Section 37-19-301, MCA, is amended to read:

"**37-19-301. Funeral director's license -- renewal -- fee.** The practice of funeral directing by anyone who does not hold a funeral director's license or a mortician's license issued by the department is prohibited. A person licensed to practice funeral directing on June 1, 1963, is entitled to an annual renewal of ~~his~~ the license on payment of a renewal fee to the department on ~~July 1 of each year~~ or before the date set by department rule. The amount of the annual renewal license fee ~~shall~~ must be set by the board. ~~A funeral director's license may not be issued to a person who is not licensed by the board of embalmers and funeral directors to practice funeral directing on June 1, 1963.~~"

Section 70. Section 37-19-306, MCA, is amended to read:

"**37-19-306. Annual renewal of mortician's license -- fee -- suspension for nonrenewal.** (1) The annual license fee for a mortician's license must be postmarked on or before ~~July 1 of the assessment year~~ the date set by department rule. The amount of the annual renewal fee ~~shall~~ must be set by the board.

(2) Failure to pay the annual renewal fee results in automatic suspension of the license. The license may be reinstated by the payment of unpaid renewal fees plus a penalty prescribed by the board."

Section 71. Section 37-19-401, MCA, is amended to read:

"**37-19-401. License required -- display of license -- renewal -- penalty for late renewal.** (1) An operating mortuary must be licensed by the board. The license must be displayed in a conspicuous place.

(2) A mortuary license expires on ~~June 30 of each year~~ the date set by department rule and may be renewed upon payment of a fee set by the board.

(3) The board may set a penalty for late renewal of a mortuary license."

Section 72. Section 37-19-702, MCA, is amended to read:

"**37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal.** (1) A person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture, voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and facilities for the cremation of human remains and that conducts cremations must be licensed by the board, beginning July 1, 1993. The license must be displayed in a conspicuous place in the crematory facility.

(2) A crematory license expires on ~~June 30 of each year~~ the date set by department rule and may be renewed upon payment of a fee set by the board, which includes the cost of annual inspection. If a crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection of both a mortuary facility under 37-19-403 and a crematory facility.

(3) The board may set a penalty fee for late renewal of a license.

(4) A person in charge of a licensed crematory facility must be licensed as a crematory operator by the board. A person employed by a licensed crematory facility must be licensed as a crematory technician by the board. The license must be displayed in a conspicuous place in the crematory facility.

(5) Crematory operator and crematory technician licenses expire on ~~June 30 of each year~~ the date set by department rule and may be renewed upon payment of a fee set by the board. On-the-job training must be provided to a crematory technician at the time of employment."

Section 73. Section 37-20-302, MCA, is amended to read:

"**37-20-302. Utilization plan approval fee -- renewal of license -- renewal fee.** (1) A utilization plan approval fee must be paid in an amount set by the board. Payment must be made when the utilization plan is submitted to the board and is not refundable.

(2) A locum tenens utilization plan approval fee must be paid in an amount set by the board.

(3) A license issued under this part must be renewed annually, on a date set by the ~~board~~ department.

(4) A license renewal fee set by the board must be paid at the time the license is renewed.

(5) The department shall mail a renewal notice no later than 60 days prior to the renewal date ~~set by the board under subsection (3)~~. A certified letter addressed to the delinquent licensee's last-known address as it appears on the records of the department constitutes notice of intent to revoke the license.

(6) If the annual renewal fee is not paid on or before the renewal date ~~set by the board under subsection (3)~~, the board may revoke the license after giving 30 days' notice to the licensee. A license may not be revoked for nonpayment of a renewal fee if the licensee pays the annual renewal fee plus a penalty prescribed by the board on or before the date fixed for revocation.

(7) Fees received by the department must be deposited in the state special revenue fund for use by the board in the administration of this chapter, subject to 37-1-101(6)."

Section 74. Section 37-20-403, MCA, is amended to read:

"**37-20-403. Physician assistant-certified as agent of supervising physician.** (1) In establishing protocol, a physician assistant-certified must be considered the agent of the supervising physician with regard to all duties delegated to the physician assistant-certified under the utilization plan. A health care provider shall consider the instructions of a physician assistant-certified as being the instructions of the supervising physician as long as the instructions concern the duties delegated to the physician assistant-certified under the utilization plan.

(2) The supervising physician and the physician assistant-certified are responsible for making available a copy of the approved utilization plan to all other health care practitioners with whom they reasonably believe they will interact on a regular basis.

~~(3) Nothing in this chapter may be construed to conflict with the provisions of 37-3-322.~~"

Section 75. Section 37-22-304, MCA, is amended to read:

"**37-22-304. Renewal of license.** (1) An application for renewal of an existing license must be made ~~within 60 days after the expiration of the license is timely, and the rights and privileges of the applicant during that period remain in effect~~ on or before the date set by department rule.

(2) Application for renewal must be made upon a form provided by the department. A renewal license must be issued upon payment of a renewal fee set by the board and upon submitting proof of ~~completion of continuing education requirements~~ qualification for renewal.

(3) ~~An individual may renew a license in the manner provided in subsection (2) within 1 year of the expiration date of the license. An applicant for renewal shall provide the board with proof that the applicant has satisfied the continuing education requirements of the board for the year for which the license is to be renewed.~~

~~(4)~~ The renewal fee is increased by 10% for each month or part of a month that the renewal is delayed ~~after the 60-day period provided in subsection (1)~~. The maximum fee for delayed renewal may not exceed twice the normal renewal fee.

~~(5)~~ (4) A license not renewed within 1 year following its expiration date terminates automatically."

Section 76. Section 37-23-103, MCA, is amended to read:

"**37-23-103. Powers and duties of board.** (1) The board shall:

(a) recommend amendments to this chapter to the governor or the legislature, or both;

(b) recommend prosecutions for violations of 37-23-311 to the attorney general or appropriate county attorneys, or both;

(c) annually publish a list of the names and addresses of all persons who are licensed professional counselors;

(d) ~~establish requirements for continuing education that are conditions of license renewal;~~

~~(e)~~ meet to perform the duties described in this section;

~~(f)~~ (e) adopt rules that set professional and ethical standards for licensed professional counselors ~~which~~ that are based on national standards and ~~such~~ other rules as may be reasonably necessary for the administration of this chapter; and

~~(g)~~ (f) distribute a copy of the professional and ethical standards to each licensed professional counselor.

(2) The board may adopt rules governing the issuance of certificates of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a certificate is issued."

Section 77. Section 37-23-202, MCA, is amended to read:

"**37-23-202. (Temporary) Licensure requirements.** (1) An applicant for licensure must have satisfactorily completed:

(a) a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) 2,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) and passed an examination prepared and administered by:

(i) the board, based on a national examination approved by the board;

(ii) the national board of certified counselors; or

(iii) the national academy of certified clinical mental health counselors; and

(d) an application form and process prescribed by the board.

(2) The board shall provide by rule for licensure~~:~~

~~(a)~~ of a person who possesses a minimum 45 semester hour graduate degree that is primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years~~; and~~

~~(b) of a person who possesses a license or certification as a professional counselor from an agency located in another state whose requirements are less than the requirements of this chapter, by:~~

~~(i) crediting past clinical experience in psychotherapy and counseling; and~~

~~(ii) recommending additional education or experience necessary to fulfill the requirements of this chapter~~.

37-23-202. (Effective July 1, 1996) Licensure requirements. (1) An applicant for licensure must have satisfactorily completed:

(a) a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) and passed an examination prepared and administered by:

(i) the board, based on a national examination approved by the board;

(ii) the national board of certified counselors; or

(iii) the national academy of certified clinical mental health counselors; and

(d) an application form and process prescribed by the board.

(2) The board shall provide by rule for licensure~~:~~

~~(a)~~ of a person who possesses a minimum 45 semester hour graduate degree that is primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years~~; and~~

~~(b) of a person who possesses a license or certification as a professional counselor from an agency located in another state whose requirements are less than the requirements of this chapter, by:~~

~~(i) crediting past clinical experience in psychotherapy and counseling; and~~

~~(ii) recommending additional education or experience necessary to fulfill the requirements of this chapter~~."

Section 78. Section 37-23-205, MCA, is amended to read:

"**37-23-205. Renewal of license.** (1) A license may be issued for no longer than 1 year. The ~~board~~ department may adopt rules to provide for annual renewal of an existing license.

(2) An application for renewal of an existing license must be made ~~within 60 days after~~ on or before the expiration ~~of the license is timely, and the rights and privileges of the applicant during that period remain in effect~~ date set by department rule.

(3) Application for renewal must be made upon a form provided by the department. A renewal license must be issued upon payment of a renewal fee set by the board and upon submitting proof of

~~completion of continuing education requirements established by the board~~ qualification for renewal.

(4) ~~An individual may renew a license in the manner provided in subsection (3) within 1 year of the expiration date of the license. An applicant for renewal shall provide the board with proof that the applicant has satisfied the continuing education requirements of the board for the year for which the license is to be renewed.~~

~~(5)~~ The renewal fee is increased by 10% for each month or part of a month that the renewal is delayed ~~after the 60-day period provided in subsection (2)~~. The maximum fee for delayed renewal may not exceed twice the normal renewal fee.

~~(6)~~ (5) A license not renewed within 1 year following its expiration date terminates automatically."

Section 79. Section 37-24-202, MCA, is amended to read:

"**37-24-202. Powers and duties of board.** (1) The board shall:

(a) administer, coordinate, and enforce the provisions of this chapter;

(b) evaluate the qualifications of applicants for licensure under this chapter and approve and supervise the examination of ~~such~~ applicants;

(c) ~~investigate persons engaging in practices that allegedly violate the provisions of this chapter;~~

~~(d)~~ adopt rules relating to professional licensure and the establishment of ethical standards of practice under this chapter;

~~(e)~~ (d) conduct hearings and keep records and minutes as the board considers necessary to carry out its functions; and

~~(f)~~ (e) adopt a seal by which the board shall authenticate its proceedings.

(2) A copy of the proceedings, records, or acts of the board, signed by the ~~chairman~~ presiding officer or secretary of the board and stamped with the seal, is prima facie evidence of the validity of ~~such~~ the document.

(3) The department may employ persons it considers necessary to carry out the provisions of this chapter."

Section 80. Section 37-24-308, MCA, is amended to read:

"**37-24-308. Renewal of license ~~— inactive status~~.** ~~(1)~~ Each license issued under this chapter is subject to annual renewal on the date set by department rule upon the payment of a renewal fee and

expires unless renewed in the manner prescribed by the rules of the board. The board may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules, but ~~no~~ a late renewal of a license may not be granted more than 5 years after its expiration.

~~(2) Upon request, the board may grant inactive status to a licensee who:~~

~~(a) does not practice as an occupational therapist or an occupational therapy assistant; and~~

~~(b) does not hold himself out as an occupational therapist or an occupational therapy assistant.~~"

Section 81. Section 37-25-307, MCA, is amended to read:

"**37-25-307. Renewal of license ~~— continuing education~~.** (1) An application for renewal of license must be made annually on a date set by the ~~board~~ department.

(2) A renewal license must be issued when the applicant submits proof that requirements for ~~continuing education~~ continued licensure have been met and pays a renewal fee set by the board commensurate with costs.

(3) An additional fee may be imposed on applications for renewal received by the board more than 30 days after the annual renewal date."

Section 82. Section 37-26-201, MCA, is amended to read:

"**37-26-201. Powers and duties of board.** The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination;

(4) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

(5) adopt rules that set nonrefundable fees, commensurate with costs, for application, examination, licensure, and other administrative services;

(6) approve naturopathic medical colleges as defined in 37-26-103;

~~(7) adopt rules for the investigation of complaints against naturopathic physicians, for hearings on complaints, and to impose disciplinary action against naturopathic physicians found to be in violation of this chapter;~~

~~(8) investigate individuals falsely claiming to be naturopathic physicians and act in cooperation with county attorneys to enforce the provisions of this chapter;~~

~~(9) adopt rules that establish, approve, and routinely review a continuing education curriculum and accreditation for naturopathic physicians that is required for license renewal;~~

~~(10)~~ (7) issue certificates of specialty practice; and

~~(11) issue temporary licenses as provided for in 37-26-403; and~~

~~(12)~~ (8) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery or the legend drugs allowed under 37-26-301."

Section 83. Section 37-26-403, MCA, is amended to read:

"**37-26-403. Application for licensure -- examination -- temporary license.** (1) A person who desires a license to practice naturopathic medicine in Montana shall apply to the department in the manner and form prescribed by the board. The application must be accompanied by the license fees, the application fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the ~~board~~ department may make an independent investigation to determine whether the applicant possesses the necessary qualifications and whether the applicant has committed unprofessional conduct that would be basis for licensure denial. At the board's request, the applicant shall provide necessary authorizations for the release of records and information pertinent to the ~~board's~~ department's investigation.

(2) A person who applies for licensure but who has not passed a licensure examination prescribed or endorsed by the board shall apply to the board for authorization to take the prescribed licensure examination. The application for examination must be accompanied by the examination fee. If the board finds that all other qualifications for licensure except that of examination have been met, the board shall authorize the applicant to take the licensure examination.

~~(3) A person who has actively engaged in the practice of naturopathic medicine in Montana prior to April 1, 1991, and who is a graduate of an approved naturopathic medical college may continue to~~

~~practice naturopathic medicine until the board reviews his qualifications if he applies to and receives from the department a temporary license by October 1, 1991. The department shall issue a temporary license to a qualified applicant. The board shall, within 6 months of October 1, 1991, review the qualifications of each temporary licensee and either authorize the department to issue a license to a person qualified under 37-26-402 or 37-26-404 or extend the temporary license for a term of no more than 1 year to allow the practitioner to pass the prescribed examination. A person who is not a graduate of an approved naturopathic medical college may not be granted a temporary license.~~"

Section 84. Section 37-27-105, MCA, is amended to read:

"**37-27-105. General powers and duties of board -- rulemaking authority.** (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board shall have the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of a license application and examination, criteria for and grading of examinations, and establishment of examination and license fees commensurate with actual costs;

(b) the issuance of a provisional license to midwives who filed the affidavit required by section 2, Chapter 493, Laws of 1989;

(c) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements that, at a minimum, meet the standards established in 37-27-201;

(d) the development of eligibility criteria for client screening by direct-entry midwives in order to achieve the goal of providing midwifery services to women during low-risk pregnancies;

(e) the development of procedures for the issuance, renewal, suspension, and revocation~~, and reciprocity~~ of licenses;

(f) the adoption of disciplinary standards for licensees;

~~(g) the establishment of investigatory and hearing procedures for processing complaints received~~

~~by the board;~~

~~(h) the establishment of continuing education requirements of at least 14 hours annually for license renewal for direct-entry midwives;~~

~~(i)~~ (g) the development of standardized informed consent and reporting forms;

~~(j)~~ (h) the adoption of ethical standards for licensed direct-entry midwives;

~~(k)~~ (i) the adoption of supporting documentation requirements for primary birth attendants; and

~~(l)~~ (j) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in 37-27-201."

Section 85. Section 37-28-201, MCA, is amended to read:

"**37-28-201. License required -- exceptions -- respiratory care not the practice of medicine.** (1) Except as otherwise provided in this chapter, a person may not practice respiratory care or represent ~~himself to be~~ to the public that the person is a respiratory care practitioner unless ~~he is~~ licensed ~~or granted a temporary permit~~ under the provisions of ~~37-28-201 through 37-28-203 and 37-28-206~~ this chapter.

(2) This chapter does not prohibit:

(a) the practice of respiratory care that is an integral part of study by a student respiratory care practitioner;

(b) self-care by a patient or the gratuitous care by a friend or family member who does not ~~hold himself out~~ purport to be a respiratory care practitioner; or

(c) respiratory care rendered in the course of an emergency.

(3) ~~Nothing in this~~ This chapter is not intended to limit, preclude, or interfere with the practice of other persons and health care providers licensed by the appropriate agencies of the state of Montana.

(4) ~~Nothing in this~~ This chapter may not be construed to permit the practice of medicine."

Section 86. Section 37-28-202, MCA, is amended to read:

"**37-28-202. Licensing requirements -- examination -- fees.** (1) To be eligible for licensure by the board as a respiratory care practitioner, the applicant shall:

(a) submit to the board an application fee in an amount established by the board and a written application on a form provided by the board demonstrating that the applicant has completed:

(i) high school or the equivalent; and

(ii) a respiratory care educational program accredited or provisionally accredited by the American medical association's committee on allied health education and accreditation in collaboration with the joint review committee for respiratory therapy education or their successor organizations; and

(b) pass an examination prescribed by the board~~, unless the examination requirement is waived under subsection (2)~~. The board may use the entry-level examination written by the national board for respiratory care or another examination that satisfies the standards of the national commission for health certifying agencies or the commission's equivalent.

(2) ~~The board may issue a license to practice respiratory care to an applicant without requiring him to pass an examination if the applicant:~~

~~(a) is currently licensed to practice respiratory care under the laws of another state, territory, or country if the board considers the qualifications for licensure to be equivalent to those required in this state; or~~

~~(b) holds credentials, conferred by the national board for respiratory care, as a certified respiratory therapy technician or a registered respiratory therapist and affirms under oath that his credentials have not been suspended or revoked.~~

~~(3)~~ A person holding a license to practice respiratory care in this state may use the title "respiratory care practitioner" and the abbreviation "RCP"."

Section 87. Section 37-28-203, MCA, is amended to read:

"**37-28-203. Renewal of license -- application and fee.** (1) A respiratory care practitioner's license expires ~~annually on May 1~~ on the date set by department rule.

(2) A licensee may renew a license by:

(a) filing an application with the board on a form approved by the board; and

(b) paying a renewal fee in an amount established by the board~~; and~~

~~(c) documenting the completion of the continuing education requirements prescribed by the board.~~

~~(3) An application for renewal of a license made within 90 days after expiration of the license is timely, and the rights and privileges of the applicant remain in effect during that period~~."

Section 88. Section 37-29-201, MCA, is amended to read:

"**37-29-201. Board powers and duties.** The board has the following powers and duties:

(1) determination of the qualifications of applicants for licensure under this chapter;

(2) administration of examinations for licensure under this chapter;

(3) collection of fees and charges prescribed in this chapter;

(4) issuance, suspension, and revocation of licenses for the practice of denturitry under the conditions prescribed in this chapter; and

(5) to adopt, amend, and repeal rules necessary for the implementation, continuation, and enforcement of this chapter, including but not limited to ~~license applications,~~ form and display of licenses, license examination format, criteria and grading of examinations, disciplinary standards for licensees, and inspection of denturitry premises and facilities~~, and investigation of complaints~~."

Section 89. Section 37-29-303, MCA, is amended to read:

"**37-29-303. Application for license.** Upon application and payment of the appropriate fee, the board shall issue a license to practice denturitry to any applicant who meets ~~one of~~ the following criteria and scores a passing grade on the examination for licensure:

~~(1) (a) Applications for persons engaged in the practice of denturitry on December 1, 1984, must be filed prior to April 1, 1985, and must include the following:~~

~~(i) three signed affidavits by persons other than family members that the applicant has been employed in denture technology for at least 5 years prior to application, is able to demonstrate competency in intraoral procedures, and has been a resident of the state of Montana for at least 6 months prior to April 1, 1985; and~~

~~(ii) documentation that the applicant has successfully completed courses approved by the board in head and oral anatomy and physiology, oral pathology, partial denture construction and design, clinical dental technology, radiology, dental laboratory technology, asepsis, clinical jurisprudence, medical emergencies, and cardiopulmonary resuscitation.~~

~~(b) Subsection (1)(a) must be applied retroactively to permit qualification of license applicants initially qualified and applying prior to the appointment and qualification of the original board under this chapter and section 27 of I.M. No. 97.~~

~~(2) Applications filed on or after April 1, 1985, must include:~~

~~(a)~~ (1) documentation that the applicant has completed formal training of not less than 2 years at an educational institution accredited by a national or regional accrediting agency recognized by the Montana

state board of regents, the curriculum of which includes courses in head and oral anatomy and physiology, oral pathology, microbiology, partial denture construction and design, clinical dental technology, radiology, dental laboratory technology, asepsis, clinical jurisprudence, and medical emergencies, including cardiopulmonary resuscitation; and

~~(b)~~ (2) documentation that the applicant:

~~(i)~~ (a) has completed 1 year of internship under the direct supervision of a licensed denturist; or

~~(ii)~~ (b) has 3 years of experience as a denturist under licensure in another state or Canada.

~~(3) A denturist who has been lawfully licensed or certified by initial licensing provisions in any state or territory that maintains a standard of denturitry which is equal to that of Montana must submit a certificate from the examining body of the state or territory in which he is certified or licensed, attesting to 5 years' practice under the certificate of license. However, no applicant may be licensed under the provisions of this subsection unless the state or territory in which he is licensed or certified extends a like privilege to denturists licensed by the state of Montana to practice denturitry. The board may enter into reciprocal relations with those states or territories whose laws are compatible with this chapter.~~"

Section 90. Section 37-29-306, MCA, is amended to read:

"**37-29-306. Licensing.** (1) ~~After March 1, 1985, a~~ A denturist license is valid for a period of 1 year and expires on the date set by department rule. A renewal license must be issued upon timely payment of the renewal fee and the submission of proof of ~~the completion of not less than 12 hours of continuing education, which may include programs sponsored by an educational institution, state denturist licensing board, or a recognized denturist organization. Subject matter must be pertinent to denturitry as enumerated in 37-29-305(3). Approval of acceptable hours of continuing education must be made by the board. The board may approve, in one action, all the courses presented by a particular organization if the board is satisfied that the courses presented by that organization meet the requirements of this section. Hours pertain to clock hours actually attended by the licensee~~ continued qualification for licensure. In addition, the denturist shall submit proof that ~~he~~ the denturist holds a current cardiopulmonary resuscitation card. ~~A license issued effective as of a date other than March 1 will be valid until midnight February 28 next following the date it was issued.~~ The license ~~shall~~ must bear on its face the address where the licensee's denturist services will be performed.

(2) Applications must be submitted on forms approved by the board and furnished by the

department. Each application must include all other documentations necessary to establish that the applicant meets the requirements for licensure and is eligible to take the licensure examination. Applications must be accompanied by the appropriate fees.

~~(3) After April 1, 1985, the board may by rule alter future renewal dates for licenses under this chapter.~~"

Section 91. Section 37-29-403, MCA, is amended to read:

"**37-29-403. Procedure for making and fitting partial denture.** (1) Prior to making and fitting a partial denture, a denturist shall:

(a) formulate a study model of the intended denture;

(b) refer the patient to a dentist, together with the model for tooth cleaning, mouth preparation, and x-rays, as needed; and

(c) make the partial denture and fit it to the existing teeth after the dentist has completed the procedures listed in subsection (1)(b) and in accordance with the dentist's recommendations.

(2) A denturist may not cut, surgically remove, or surgically reduce any tissue or teeth in the process of fitting a partial denture.

~~(3) A denturist who makes or fits a partial denture in a manner not consistent with this section is subject to the sanctions provided in 37-29-311.~~"

Section 92. Section 37-30-301, MCA, is amended to read:

"**37-30-301. Certificate required.** ~~(1) Except as provided in subsection (2), a~~ A person may not practice or attempt to practice barbering unless ~~he~~ the person first receives from the department a certificate of registration.

~~(2) The board may authorize the department to grant a temporary certificate to any person qualified to take the examination required by 37-30-305 who pays a temporary certification fee prescribed by the board. A person holding a temporary certificate may engage in the practice of barbering under the supervision of a certified barber for a period of 90 days or until the next examination scheduled by the board, whichever is longer.~~"

Section 93. Section 37-30-305, MCA, is amended to read:

"**37-30-305. Examination.** Except as provided ~~in 37-30-309~~ by rules adopted under [section 20] to implement [section 4], an applicant for a barber's certificate of registration ~~must~~ shall apply to the department to take the examination for a barber's certificate of registration."

Section 94. Section 37-31-322, MCA, is amended to read:

"**37-31-322. Renewal ~~—continuing education~~ -- delinquency fee.** (1) Licenses and certificates may not be issued for ~~no~~ longer than 1 year unless otherwise provided by department rule. Licenses and certificates expire on ~~December 31 unless otherwise provided by rule or~~ the date set by department rule and may be renewed ~~for the next year or renewal period~~. Licenses and certificates may be renewed by application made ~~prior to December 31 of each year, unless otherwise provided,~~ on or before the renewal date and by the payment of a required renewal fee. Expired licenses and certificates may be renewed under rules made by the board, but the right to renew an expired license or certificate terminates after 10 years of nonpayment. ~~The board may provide by rule for a change in the renewal date and renewal period for the manager-operator and salon owner category.~~ The renewal fee may not exceed twice the fee for a 2-year renewal or three times the fee for a 3-year renewal and must be as set by the board.

~~(2) In addition to the foregoing requirements for renewal, persons applying for the renewal of licenses to teach cosmetology must have fulfilled the following additional requirements:~~

~~(a) During each year, an active teacher, either full-time or part-time, must have successfully completed 15 hours' professional teacher training at a school approved by the board.~~

~~(b) A person holding a license to teach cosmetology but not actively engaged either full-time or part-time in teaching cosmetology or manicuring during the preceding year may renew the license by paying the required fee. A person holding a license to teach cosmetology but not actively engaged in teaching cosmetology or manicuring either full-time or part-time for the preceding year or longer and wishing to resume active teaching of cosmetology or manicuring must successfully complete 30 hours' professional teacher training at a school approved by the board before resuming active teaching. However, the foregoing provisions do not prevent the board, under rules it adopts, from permitting a person who holds a license to teach cosmetology and who is not actively engaged either full-time or part-time in teaching cosmetology or manicuring from teaching as a substitute for an active teacher.~~

~~(3)~~ (2) A fee prescribed by the board must be charged, in addition to other fees fixed by law, for renewal applications of licenses and certificates made after December 31 of each year or other

predetermined renewal deadline."

Section 95. Section 37-32-305, MCA, is amended to read:

"**37-32-305. Fees -- renewal -- deposit of moneys collected.** (1) The fee for an original electrologist license ~~shall~~ must be set by the board. The renewal ~~shall be~~ is automatic, unless revoked or suspended for cause, and the renewal fee ~~shall~~ must be set by the board.

(2) The fee for an original electrologist salon license ~~shall~~ fee must be the same as that for cosmetology salons. The renewal fee ~~shall~~ must be the same as that for cosmetology salons.

(3) ~~All licenses~~ A license issued under this chapter ~~expire~~ expires on ~~December 31 and shall~~ the date set by department rule and may be renewed annually. Failure to renew ~~on or before December 31 shall cause~~ subjects the licensee to a late renewal fee prescribed by the board to be added to the regular renewal fee. The right to renew by payment of the late renewal fee expires after 3 years of nonpayment.

(4) All fees or ~~moneys~~ money collected by the department under this chapter ~~shall~~ must be deposited in the state special revenue fund for the use of the board in administration of the chapter."

Section 96. Section 37-34-201, MCA, is amended to read:

"**37-34-201. Powers and duties of the board -- rulemaking authority.** (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of a license application procedure and acceptable certifications for each category of license;

(b) the establishment of license fees commensurate with actual costs;

(c) the establishment of criteria for educational requirements that, at a minimum, meet the standards set forth in 37-34-303;

(d) the development of procedures for the issuance, renewal, suspension, revocation, and reciprocity of licenses;

(e) the adoption of disciplinary standards for licensees;

(f) the establishment of ~~investigatory and~~ hearing procedures ~~for processing complaints received by the board~~; and

(g) ~~the establishment of continuing education requirements of at least 14 hours annually for license renewal for clinical laboratory practitioners; and~~

~~(h)~~ a requirement that the supervisor of a clinical laboratory technician be accessible at all times that testing is being performed by the technician in order to provide onsite, telephonic, or electronic consultation."

Section 97. Section 37-34-305, MCA, is amended to read:

"**37-34-305. Licensure application procedures.** (1) An applicant shall submit an application for a license to the board upon the forms prescribed and furnished by the board and shall pay an application fee set by the board.

(2) Upon receipt of the application and fee, the board shall issue a license for a clinical laboratory scientist, a clinical laboratory specialist, or a clinical laboratory technician to any person who meets the qualifications specified by the board as set forth in rules adopted by the board pursuant to 37-34-201 and 37-34-303.

(3) A license issued under this chapter must be renewed ~~by May 1 of each year~~ on or before the date set by department rule.

(4) Except for the assessment provided in 37-1-101(6), money paid for application, license, and license renewal fees must be deposited in the state special revenue fund for use by the board."

Section 98. Section 37-40-203, MCA, is amended to read:

"**37-40-203. Rulemaking power.** (1) The board may adopt rules, consistent with the purposes of this chapter, as it considers necessary.

(2) The board's rulemaking and hearing functions ~~shall~~ must be in accordance with the Montana Administrative Procedure Act. The board shall adopt rules:

(a) establishing standards of professional conduct in order to maintain a high standard of integrity,

dignity, and competency in the profession of sanitarian, including competency in specific fields of sanitation;

(b) governing the conduct of matters before the board;

(c) governing educational equivalency requirements, as provided in 37-40-302, for registration of sanitarians; and

(d) ~~prescribing requirements for continuing education to be met by registered sanitarians in order to maintain their professional knowledge and competence and as a condition to continuing in the practice of the profession of sanitarian; and~~

~~(e)~~ defining qualifications for sanitarian-in-training status for issuance of the initial annual permit."

Section 99. Section 37-40-304, MCA, is amended to read:

"**37-40-304. Fees -- renewal.** (1) An applicant for a license shall pay a fee set by the board in an amount commensurate with examination and administrative costs.

(2) A registered sanitarian may renew ~~his~~ the license by paying an annual fee and meeting qualifications set by the board ~~and submitting proof of continuing education as prescribed by the board~~.

(3) Renewal fees are due ~~July 1 of~~ on or before the renewal ~~year~~ date set by department rule. If the renewal fee is not paid, the license expires. Licenses which have lapsed for failure to pay renewal fees may be reissued under rules adopted by the board."

Section 100. Section 37-47-307, MCA, is amended to read:

"**37-47-307. Investigation of applicant -- issuance or denial of license.** (1) The ~~board~~ department shall investigate each applicant for an outfitter's or professional guide's license. ~~and~~ The board shall determine the applicant's qualifications.

(2) The board may deny or refuse to issue any new license or to renew any previous license if the applicant does not meet the qualifications stated in this section. In the event that any application for license is denied or refused, the board shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) Final decision as to issuance of renewal licenses must be made not later than 30 days from the date of receipt of the completed application for renewal and not later than 90 days from the date of receipt of a completed application for a new license.

(4) A licensee in good standing is entitled to a new license for the ensuing license year upon complying with the provisions of this chapter and renewal deadlines and fees imposed by rule of the board and completing an application for license renewal on a form provided by the board."

Section 101. Section 37-50-203, MCA, is amended to read:

"**37-50-203. Rules of the board.** (1) The board may adopt ~~such~~ rules, consistent with the purposes of this chapter, as it considers necessary.

(2) The board shall adopt:

(a) rules of professional conduct appropriate to establish and maintain a high standard of integrity, dignity, and competency in the profession of public accounting, including competency in specific fields of public accounting;

(b) rules of procedure governing the conduct of matters before the board;

(c) rules governing education requirements, as provided in 37-50-305, for issuance of the certificate of a certified public accountant and the license for licensed public accountant;

(d) ~~rules prescribing requirements for continuing education to be met by certified public accountants and licensed public accountants, in order to maintain their professional knowledge and competence, as a condition to continuing in the practice of public accounting. In issuing rules and individual orders regarding continuing education, the board in its discretion:~~

~~(i) may, among other things, use or rely upon guidelines and pronouncements of recognized educational and professional associations;~~

~~(ii) may prescribe the content, duration, and organization of courses; and~~

~~(iii) shall take into account the accessibility to applicants of such continuing education as it may require and any impediments to interstate practice of public accounting that may result from differences in such requirements in other states;~~

~~(e)~~ rules governing partnerships and corporations practicing public accounting, including but not limited to rules concerning their style, name, title, and affiliation with any other organization and establishing reasonable standards with respect to professional liability insurance and unimpaired capital and prescribing joint and several liability for torts relating to professional services for shareholders of any ~~such~~ corporation failing to comply with ~~such~~ the standards;

~~(f) internal rules considered necessary to initiate and conduct investigations and protect the~~

~~confidences of the client of any certified public accountant or licensed public accountant subjected to board disciplinary proceedings;~~

~~(g)~~ (e) rules defining requirements for accounting experience, not exceeding 2 years, for issuance of the initial annual permit; and

~~(h)~~ (f) rules to enforce the provisions of this chapter~~,~~. ~~the~~ The purpose of ~~which~~ the rules ~~shall~~ must be to provide for the monitoring of the profession of public accounting and to maintain the quality of the accounting profession."

Section 102. Section 37-50-314, MCA, is amended to read:

"37-50-314. Annual permit required -- display. (1) ~~No~~ A person may not engage in the practice of public accounting in this state ~~unless he holds~~ without a current annual permit issued by the department. An annual permit to engage in the practice of public accounting in this state ~~shall~~ must be issued by the department to a person who holds a current certificate as a certified public accountant or license as a licensed public accountant and complies with the requirements of this chapter.

~~(2) After the expiration of the 3-year period immediately following the effective date of a board rule establishing continuing education requirements, each application for renewal of a permit by a person who has held his certificate or license for 3 years or more must be accompanied or supported by evidence satisfactory to the board of fulfillment of such requirements during the 3-year period immediately preceding the application.~~

~~(3) The board may in its discretion waive the requirement stated in subsection (2) if the applicant agrees to follow a particular program or schedule of continuing education agreeable to the board.~~

~~(4) The board may relax or suspend continuing education requirements for an applicant who certifies that he does not intend to engage in the practice of public accounting and for an applicant who cannot fulfill the requirement due to individual hardship.~~

~~(5) Subject to subsections (3) and (4), the board may revoke, suspend, or refuse to renew the permit of an applicant who fails to furnish evidence of having met the continuing education requirements established by the board.~~

~~(6)~~ (2) The current annual permit to engage in the practice of public accounting must be prominently displayed for public inspection."

Section 103. Section 37-50-317, MCA, is amended to read:

"**37-50-317. Certificate, license, and permit expiration -- renewal fees.** (1) Certificates, licenses, and permits issued by the board expire on ~~December 31 of each year~~ the date set by department rule.

(2) Certificates and licenses must be renewed by the department upon payment of the annual renewal fee and upon compliance with requirements prescribed by the board.

(3) Permits must be renewed by the department upon payment of the annual renewal fee and upon compliance with the ~~continuing education~~ requirements prescribed by the board."

Section 104. Section 37-51-204, MCA, is amended to read:

"**37-51-204. Educational programs ~~and continuing education~~.** (1) The board may, subject to 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or institutes and incur necessary expenses in this connection.

(2) The board may assist libraries and educational institutions in sponsoring studies and programs for the purpose of raising the standards of the real estate business and the competency of licensees.

~~(3) The board may prescribe by rule continuing education requirements for all licensees, not to exceed 15 classroom or equivalent hours in any 2-year period, including proof of conformance, but except as provided in 37-51-302 the board may not require examination of licensees.~~"

Section 105. Section 37-51-306, MCA, is amended to read:

"**37-51-306. Transactions with nonresidents and with nonlicensed brokers or salesmen -- ~~reciprocity~~ -- consent to legal process.** (1) A licensed broker may not employ or compensate, directly or indirectly, a person for performing the acts regulated by this chapter who is not a licensed broker or licensed salesman. However, a licensed broker may pay a commission to a licensed broker of another state if the nonresident broker has not conducted and does not conduct in this state a service for which a fee, compensation, or commission is paid. ~~This subsection does not limit the next subsection.~~

(2) ~~A person who is licensed as a broker or a salesman in another state may obtain a license as a broker or as a salesman in this state by complying with this chapter and with the rules of the board. However, this section applies only to licensees of other states that offer the same privileges to the licensees of this state. A nonresident licensee need not maintain a place of business in this state. The board may:~~

~~(a) authorize the department to license a nonresident without examination if he files with the~~

~~department an authorized or certified copy of the license issued in another state and pays to the department the same license fee as is required for obtaining a license in this state;~~

~~(b) refuse to authorize the department to issue a license to an applicant who is not a resident of this state; and~~

~~(c) enter into reciprocal agreements with other states.~~

~~(3)~~ A nonresident licensee shall file an irrevocable written consent that legal actions arising out of a commenced or completed transaction may be commenced against the nonresident licensee in a county of this state that may be appropriate and designated by Title 25, chapter 2, part 1. The consent must provide that service of summons in this action may be served on the department for and on behalf of the nonresident licensee, and this service is sufficient to give the court jurisdiction over the licensee conducting a transaction in a county. The consent must be acknowledged and, if made by a corporation, must be authenticated by its seal."

Section 106. Section 37-51-311, MCA, is amended to read:

"**37-51-311. Fees -- deposit of fees.** ~~(1)~~ The fees prescribed by the board ~~shall~~ must be charged by the department and paid into the state special revenue fund for the use of the board, subject to 37-1-101(6).

~~(2) The board shall charge an annual fee from a licensee who wishes to be placed in an inactive status. A licensee who is placed in an inactive status by the board and who has paid the required fee need not pay any fee assessed by the board for the purpose of funding the real estate recovery account during the period the licensee remains in inactive status.~~"

Section 107. Section 37-53-211, MCA, is amended to read:

"**37-53-211. Approval or disapproval of application or registration.** (1) Registration of a timeshare offering is effective upon written notice of approval of the application by the board or upon the passage of 30 calendar days after filing of a completed application if not approved or denied prior to that time.

(2) The board may issue an order~~, subject to 37-53-503,~~ denying, suspending, or revoking any application or registration if the board finds that the order is in the public interest and that:

(a) the application or registration is incomplete or contains a statement that is false or misleading with respect to any material fact;

(b) any provision of this chapter or any rule or order lawfully issued under this chapter has been violated;

(c) the activities of the developer include or would include activities that are illegal; or

(d) the timeshare offering has worked or would tend to work a fraud on purchasers.

(3) The board shall promptly notify the applicant or registrant of any order denying, suspending, or revoking registration and of the applicant's or registrant's right to request a hearing within 20 days of receipt of notification. If the applicant or registrant does not request a hearing, the order remains in effect until the board modifies or vacates it."

Section 108. Section 37-53-302, MCA, is amended to read:

"**37-53-302. Denial, suspension, or revocation of license or application.** The board may by an order~~, subject to 37-53-503,~~ deny, suspend, or revoke a timeshare salesperson's or timeshare broker's license or application for license if the board finds that the order is in the public interest and that the applicant or licensee:

(1) has filed an application for licensure and personal disclosure statement as a timeshare salesperson or timeshare broker that is incomplete in any material respect or contains any statement that is, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) has violated or failed to comply with any provision of this chapter, rules adopted under this chapter, or Title 37, chapter 51;

(3) has been convicted of a felony involving theft, fraud, or any consumer protection statute or a felony involving moral turpitude and related to the occupation of timeshare salesperson or timeshare broker;

(4) is permanently or temporarily enjoined by a court from engaging in or continuing any conduct or practice involving an aspect of the timeshare business;

(5) has engaged in dishonest or unethical practices in the timeshare business; or

(6) has not complied with any condition imposed by the board or is not qualified on the basis of knowledge of the timeshare industry or this chapter."

Section 109. Section 37-54-105, MCA, is amended to read:

"**37-54-105. Powers and duties of board.** The board shall:

(1) adopt rules to implement and administer the provisions of this chapter;

(2) establish and collect fees commensurate with the costs of licensure and certification and renewal of a license or certificate;

(3) make available application forms for licensure and certification within 15 days of the first meeting of the board;

(4) establish minimum requirements for education, experience, and examination for licensure and certification as set out by the appraisal qualification board of the appraisal foundation;

(5) receive applications for examination from qualified applicants, prescribe and administer examinations to qualified applicants, and determine the acceptable level of performance on examinations;

(6) receive and review applications for licensure and certification and issue licenses and certificates;

(7) review periodically the standards for development and communication of appraisals and adopt rules explaining and interpreting the standards;

(8) retain all applications and other records submitted to it;

(9) maintain a registry of the names and addresses of licensees and certificate holders;

(10) establish disciplinary procedures for reprimand, suspension, or revocation of a license and certificate;

(11) adopt by rule standards of professional appraisal practice in this state;

(12) reprimand, suspend, revoke, or refuse to renew the license or certificate of a person who has violated the standards established for licensed and certified real estate appraisers; and

~~(13) establish criteria for courses and seminars consistent with the continuing education requirements set out in 37-54-210 and 37-54-310; and~~

~~(14)~~ perform other duties necessary to implement this chapter."

Section 110. Section 37-54-210, MCA, is amended to read:

"**37-54-210. License renewal ~~— continuing education requirements~~.** (1) A real estate appraiser's license expires on ~~March 31 following the date of issuance or renewal and is invalid thereafter~~ the date set by department rule.

(2) A licensee may renew a license~~, other than a temporary permit issued under 37-54-406,~~ by filing an application with the board on a form approved by the board, paying a renewal fee prescribed by the board, and meeting all requirements of this ~~section~~ chapter.

(3) In renewing a license, the board shall ~~assure~~ ensure that the licensee has a working knowledge of:

(a) current real estate appraisal theories; and

(b) practices and techniques that will enable the licensee to provide competent independent appraisal service under the authority of the license.

~~(4) An application for renewal must include evidence satisfactory to the board that within the 3-year period immediately following the date of issuance of the license and within each 3-year period thereafter, the licensee has completed at least 45 classroom hours of instruction in courses or seminars approved by the board, at least 15 hours of which must be related to standards of professional appraisal practice. Continuing education hours must be credited to the 3-year period during which the instruction occurred and may not be carried over to a subsequent 3-year period.~~"

Section 111. Section 37-54-211, MCA, is amended to read:

"**37-54-211. Late renewal of license.** (1) A license that is not renewed within 1 year of the most recent renewal date automatically terminates. A licensee may renew the license within the 1-year period from the date of most recent renewal by:

(a) filing with the board an application for late renewal on a form approved by the board;

(b) satisfying the ~~continuing education~~ requirements ~~of 37-54-210~~ for continued licensure; and

(c) paying a late renewal fee prescribed by the board.

(2) The board may refuse to renew a license if the licensee has continued to perform independent appraisal services as a licensed real estate appraiser following expiration of the license."

Section 112. Section 37-54-302, MCA, is amended to read:

"**37-54-302. Certification process -- fees.** (1) An application for examination for certification, original certification, or renewal of certification must be made in writing to the board on forms approved by the board.

(2) A fee established by the board by rule must accompany the application.

(3) When an applicant files an application for original certification or renewal of certification, the applicant shall sign a pledge ~~that he will~~ to comply with the standards of professional appraisal practice established for certified real estate appraisers under 37-54-403~~. He shall also~~ and affirm that ~~he~~ the

applicant understands the types of misconduct for which disciplinary action may be initiated ~~against him~~ under 37-54-402.

(4) To be eligible for original certification as a real estate appraiser, an applicant shall:

(a) specify the class or classes of certification for which the applicant is applying and provide evidence satisfactory to the board that ~~he~~ the applicant has the education required for the class or classes of certification for which ~~he is applying~~ application is made; and

(b) pass an examination prescribed by the board.

(5) A certificate issued under 37-54-305 must bear the signatures or facsimile signatures of the members of the board and a certificate number assigned by the board."

Section 113. Section 37-54-310, MCA, is amended to read:

"**37-54-310. Renewal of certificate ~~—continuing education requirements~~.** (1) A certificate issued under 37-54-305 expires on ~~March 31 following the date of issuance or renewal and is invalid thereafter~~ the date set by department rule.

(2) A certificate may be renewed upon payment of a renewal fee and by meeting all requirements for renewal.

~~(3) (a) The certificate holder shall produce evidence satisfactory to the board that during the 3-year period immediately following the date of issuance of the certificate, and during each 3-year period thereafter, the certified real estate appraiser has:~~

~~(i) completed at least 45 classroom hours of instruction in courses or seminars approved by the board, at least 15 hours of which must be related to standards of professional appraisal practice;~~

~~(ii) completed an education program determined by the board to be equivalent to the courses and seminars approved under subsection (3)(a)(i); or~~

~~(iii) participated, other than as a student, in an education program approved by the board that relates to the theory and technique of real property appraisal.~~

~~(b) Continuing education hours must be credited to the 3-year period during which the instruction occurred and may not be carried over to a subsequent 3-year period.~~

~~(4)~~ (3) An applicant for renewal shall state the class of certification previously held and presently sought."

Section 114. Section 37-54-311, MCA, is amended to read:

"**37-54-311. Late renewal of certificate.** (1) A certificate that is not renewed within 1 year of the most recent renewal date automatically terminates. A certificate holder may renew the certificate within the 1-year period from the date of most recent renewal by:

(a) filing with the board an application for late renewal on a form approved by the board;

(b) satisfying the ~~continuing education~~ requirements ~~of 37-54-310~~ set by law; and

(c) paying a late renewal fee prescribed by the board.

(2) The board may refuse to renew a certificate if the certificate holder has continued to perform independent appraisal services in this state following expiration of the certificate."

Section 115. Section 37-60-202, MCA, is amended to read:

"**37-60-202. Rulemaking power.** The board shall adopt and enforce rules:

(1) specifying the form of and procedure to be used in granting, denying, suspending, or revoking any license or identification card;

(2) fixing the qualifications of resident managers, qualifying agents, licensees, and holders of identification cards, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare;

(3) establishing, in accordance with 37-1-134, application and examination fees for original or renewal licenses and identification cards, and providing for refunding of any ~~such~~ fees;

(4) prohibiting the establishment of branch offices of any licensee, except a proprietary security organization, without approval by the board, establishing qualification requirements and license fees for those offices;

(5) for the certification of private investigator and private security guard training programs, including the certification of firearms training programs and firearms instructors;

(6) for the approval of weapons;

(7) requiring the maintenance of records;

(8) requiring licensees to file ~~such~~ an insurance policy or proof of financial responsibility as the board considers necessary with the board; and

~~(9) defining "unprofessional conduct" for the purposes of removal from the board and suspension or revocation of licenses and identification cards;~~

~~(10) establishing the expiration and renewal periods for licenses and identification cards;~~

~~(11) for the temporary employment of persons without the required licenses or identification cards;~~

~~(12) providing for the issuance of probationary and temporary licenses for contract security companies and private investigators;~~

~~(13)~~ (9) providing for the issuance of probationary identification cards for private investigators who do not meet the requirements for age, employment experience, and written examination~~; and~~

~~(14) providing for the application of administrative fines and penalties for minor infractions of this chapter and supporting rules~~."

Section 116. Section 37-60-301, MCA, is amended to read:

"**37-60-301. License required.** (1) Except as provided in 37-60-105, it is unlawful for any person to act as or perform the duties as defined in 37-60-101 of a contract security company or proprietary security organization, a private investigator, or a private security guard without having first obtained a license from the board. Those persons licensed on April 18, 1983, shall retain their current licensure status and ~~must~~ shall renew their licenses on the renewal date as prescribed by the ~~board~~ department.

(2) It is unlawful for any unlicensed person to act as, pretend to be, or represent ~~himself~~ to the public that the person ~~as being~~ is licensed as a private investigator, a contract security company, a proprietary security organization, or a private security guard.

(3) A person who knowingly engages an unlicensed private investigator, private security guard, or contract security company is guilty of a misdemeanor punishable under 37-60-411."

Section 117. Section 37-60-312, MCA, is amended to read:

"**37-60-312. Annual renewal.** (1) Licenses and identification cards issued under this chapter expire at midnight on the dates prescribed by ~~the board~~ department rule if not, in each instance, renewed. To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

(2) The board may refuse to renew a license or identification card for any reason for which it could refuse to grant an original application or suspend or revoke any license or identification card ~~under 37-60-321~~."

Section 118. Section 37-60-411, MCA, is amended to read:

"**37-60-411. Penalties -- investigation -- enforcement -- review.** (1) Any person who violates any of the provisions of this chapter or who conspires with another person to violate any of the provisions of this chapter relating to licensure is guilty of a misdemeanor punishable by a fine of not more than $1,000, ~~or~~ by imprisonment of not more than 1 year, or by both ~~such~~ fine and imprisonment.

(2) The board shall:

(a) gather evidence of violations of this chapter, and of any rule established pursuant to this chapter, by persons engaged in a business subject to licensure under this chapter who fail to obtain licenses; and

(b) furnish that evidence to prosecuting officers of any county or city.

(3) The prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within ~~his~~ the prosecutor's jurisdiction.

~~(4) (a) If upon investigation the board considers it appropriate, it may issue a citation to a licensee. The citation may contain:~~

~~(i) an order of abatement fixing a reasonable time for abatement of the violation; and~~

~~(ii) assessment of an administrative fine in an amount not to exceed $500 for each violation of this chapter.~~

~~(b) A citation or fine assessment must inform the licensee that if he contests the finding of a violation, a review by the board may be requested in accordance with the Montana Administrative Procedure Act. If a review is not requested pursuant to this section, payment of the fine does not constitute an admission of the violation charged.~~

~~(c) If the licensee neither requests a review nor pays the assessed fine within 20 days of notice of the citation, the board shall suspend the license of such person 30 days after the notice of citation.~~

~~(d) All fines collected pursuant to this section must be deposited in the state special revenue fund for use of the board.~~"

Section 119. Section 37-65-306, MCA, is amended to read:

"**37-65-306. Annual renewal -- fee -- ~~continuing education~~.** ~~(1)~~ A licensed architect in this state who desires to continue the practice of ~~his~~ the profession shall annually, ~~during the month of July, during the time he continues in this practice~~ on or before the renewal date set by department rule:

~~(a)~~ (1) pay to the department a reasonable fee as prescribed by the board; and

~~(b)~~ (2) present evidence to the board of ~~compliance with any continuing education requirements imposed by the board~~ continued qualification for licensure.

~~(2) (a) The board may by rule prescribe continuing education requirements for license renewal. If the board prescribes continuing education requirements, the rules shall provide for the method of compliance, such as:~~

~~(i) attendance at approved classroom or seminar type instruction programs; or~~

~~(ii) passing an examination.~~

~~(b) If classroom or seminar type instruction is required, the board shall by rule:~~

~~(i) make determinations as to approved programs; and~~

~~(ii) prescribe the number of hours required for compliance.~~

~~(c) If an examination is required, the board shall by rule prescribe:~~

~~(i) the subjects of the examination; and~~

~~(ii) the grade required to pass the examination.~~"

Section 120. Section 37-66-307, MCA, is amended to read:

"**37-66-307. Annual renewal -- withdrawal -- deposit of fees.** (1) Certification of licensure or renewal of registration ~~expire~~ expires on the ~~last day of June following their issuance or renewal~~ date set by department rule. Renewal may be effected ~~during the month of June~~ on or before the renewal date by payment to the department of the required fee. The board shall issue current renewal registration to each landscape architect promptly upon payment of the annual renewal registration fee.

(2) Any registrant in good standing, upon ceasing to practice landscape architecture, ~~may suspend his license by giving~~ shall give written notice to the board, and the board shall suspend the license. ~~Thereafter, he~~ The person may resume practice upon payment of the then-current fee and upon approval by the board.

(3) All fees received under the provisions of this chapter ~~shall~~ must be deposited in the state special revenue fund by the department. The ~~moneys~~ money collected ~~shall~~ must be used by the department to carry out the purpose, duties, and responsibilities of the chapter, subject to 37-1-101(6)."

Section 121. Section 37-67-202, MCA, is amended to read:

"**37-67-202. Rulemaking ~~and subpoena power~~.** ~~(1)~~ The board ~~shall have the power to~~ may adopt ~~and amend all~~ rules, including rules of procedure, ~~not inconsistent with the constitution and laws of this state, which may be~~ reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it.

~~(2) In carrying into effect the provisions of this chapter, the board, under the hand of its chairman and the seal of the board, may subpoena witnesses and compel their attendance and also may require the production of books, papers, documents, etc., in a case involving the revocation of registration or practicing or offering to practice without registration. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued or shall refuse to testify or produce any books, papers, or documents, the board may present its petition to the district court setting forth the facts, and thereupon such court shall, in a proper case, issue its subpoena to such person requiring his attendance before such authority and there to testify or to produce such books, papers, and documents as may be deemed necessary and pertinent by the board. Any person failing or refusing to obey the subpoena or order of the court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of said court.~~"

Section 122. Section 37-67-320, MCA, is amended to read:

"**37-67-320. Practice by partnerships and corporations.** (1) The practice of or offer to practice engineering or land surveying by registered professional engineers or registered professional land surveyors organized as a partnership or incorporated as a professional corporation under the provisions of the professional corporations law of this state or under the provisions of a similar law of any other state is permitted in this state if all the partners of the partnership or each officer and shareholder of the professional corporation are registered under or exempt from this chapter.

(2) The practice of or offer to practice engineering or land surveying by a partnership other than one provided for in subsection (1) or by a corporation, other than a professional corporation, is permitted in this state if:

(a) all officers, employees, and agents of a partnership or corporation who will perform the practice of engineering or land surveying within this state for the partnership or corporation are registered under this chapter;

(b) each person in responsible charge of the activities of a partnership or corporation, which

activities constitute the practice of engineering or land surveying, is a professional engineer or professional land surveyor registered in this state or a person authorized to practice engineering or land surveying as provided in this chapter;

(c) the partnership or corporation has been issued a certificate of authorization by the board as provided in subsection (3);

(d) the partnership or corporation is jointly and severally responsible with and for the conduct or acts of its agents, employees, or officers concerning any professional engineering or land surveying services performed or to be executed in this state; an individual practicing engineering or land surveying is not relieved of the responsibility for ~~his~~ the individual's conduct or acts performed by reason of ~~his~~ the individual's employment by or relationship with the partnership or corporation; and

(e) all final drawings, specifications, plans, reports, or other engineering or land surveying papers or documents involving the practice of engineering or land surveying, when issued, are dated and bear the seals and signatures of the professional engineers or professional land surveyors registered under this chapter by whom or under whose responsible charge they were prepared.

(3) A partnership or corporation desiring a certificate of authorization or the renewal ~~thereof~~ of a certificate shall file a written application with the board listing the names and addresses of all partners of the partnership or officers and directors of the corporation and the names and addresses of all employees who are registered to practice engineering or land surveying in this state and who are or will be in responsible charge of any engineering or land surveying in this state by the partnership or corporation, together with any other information the board requires. Upon the receipt of an application and of a fee in an amount established by the board for the initial certificate or biennial renewal ~~thereof~~, the board shall issue to the partnership or corporation a certificate of authorization or a renewal ~~thereof, which certificate of authorization~~ that may not be transferred. If the board finds an error in an application or that facts exist which would entitle the board to suspend or revoke a certificate if issued to the applicant, the board shall deny the application. If a change occurs in the information submitted on the application of a partnership or corporation within the term of the authorization, the partnership or corporation shall file with the board a written report listing the change within 30 days after the change occurs. The provisions of this chapter concerning issuance, expiration, renewal, and reissuance of certificates of registration of individuals, except for 37-67-315(2), apply to certificates of authorization issued to partnerships and corporations under this subsection. Partnerships or corporations are subject to disciplinary proceedings and penalties and the board

may reprimand them or revoke, suspend, or refuse to renew their certificates of authorization for cause in the same manner and to the same extent as provided in ~~37-67-331~~ Title 37, chapter 1. "Registrant" ~~and "certificate of registration" in 37-67-331 include~~ includes any partnership or corporation holding a certificate of authorization issued under this subsection, and "certificate of registration" includes ~~to such~~ the certificate of authorization."

Section 123. Section 37-68-201, MCA, is amended to read:

"**37-68-201. Organization -- meetings -- quorum -- rulemaking power -- seal.** (1) Each July, the board shall elect from its membership a president, ~~vice president~~ vice president, and secretary-treasurer.

(2) The board shall meet quarterly and at ~~such~~ other times it considers necessary.

(3) A majority of the members of the board shall constitute a quorum for transaction of business.

(4) The board may:

(a) adopt rules for the administration of this chapter, for the licensing of electrical contractors~~, for continuing education,~~ and for the examination and licensing of master and journeymen electricians;

(b) adopt a seal;

(c) cause the prosecution and enjoinder of persons violating this chapter."

Section 124. Section 37-68-310, MCA, is amended to read:

"**37-68-310. License renewal every three years.** Licenses of residential electricians, journeyman electricians, or master electricians, unless they have been suspended or revoked by the board, must be renewed for a period of 3 years by the department on application for renewal made to the department ~~prior to July 15 of the year in which the prior license expired~~ on or before the renewal date set by department rule and on the payment of a renewal fee. If application for renewal is not made ~~prior to July 15~~ on or before the renewal date, an additional fee prescribed by ~~the~~ board rule must be paid ~~because of the delinquency in renewal. All applications for renewal must be made prior to August 15 of the year in which the prior license expired, otherwise the license is forfeited and the applicant is required to pass the examination and pay the fees required of applicants for original licenses~~."

Section 125. Section 37-68-312, MCA, is amended to read:

"**37-68-312. Electrical contractor's license -- application -- issuance -- fees -- renewal.** Each

electrical contractor shall, on or before ~~July 1 of the year in which the prior license expired~~ the date set by department rule, file with the department an application in writing for each firm operated by the electrical contractor in this state ~~to obtain a~~ for renewal of the license. A license may not be issued or renewed until the applicant meets the licensure requirements and has paid to the department a license fee set by the board for each firm operated by the electrical contractor. Licenses must bear the date of ~~issue~~ issuance or renewal. ~~Each original license expires on the July 1 that is subsequent to the date of issuance, as determined by the board. An electrical contractor licensed under this chapter is entitled to have a~~ A license must be renewed for ~~the ensuing~~ a 3-year period ~~by~~ upon payment to the department of the license fee on or before the renewal date ~~of expiration of the license and by~~ and upon meeting the requirements set by ~~the~~ board rule."

Section 126. Section 37-71-212, MCA, is amended to read:

"**37-71-212. Investigation of applicant -- issuance of license.** ~~It~~ The department shall ~~be the duty of the department to~~ investigate and determine ~~the~~ a license applicant's fitness to act in the capacity of public contractor ~~as defined in this chapter,~~ and ~~no~~ may not issue a license ~~shall be issued to such applicant~~ until ~~the expiration of~~ 10 days ~~from and~~ after the filing of ~~such~~ the application. The license ~~so issued in pursuance of the first application shall entitle the licensee to act as a public contractor within this state, subject to the limitations of such license, until the expiration of the then current calendar year~~ must be renewed each year on or before the renewal date set by department rule."

Section 127. Section 37-71-213, MCA, is amended to read:

"**37-71-213. Renewal -- waiting period after cancellation.** (1) Any license issued under the provisions of this chapter may be renewed for each successive calendar year by obtaining from the department a certificate of renewal thereof. For the purpose of obtaining ~~such~~ a certificate of renewal, the licensee shall file with the department an application ~~therefor~~, stating the field of contracting and class of license applied for and containing at least the same information as that required in the application for the original license. The application for ~~such certificate of~~ renewal must be made to the department on or before ~~March 1 of each successive calendar year, and such renewal certificate shall be good for the then current calendar year~~ the renewal date set by department rule.

(2) At the time of filing the application for a certificate of renewal, the applicant shall pay to the

department a license fee equal to 50% of the license fee for the original license, provided that if any applicant for a certificate of renewal shall apply for a renewal under a different field or class from the license ~~theretofore~~ issued to ~~him~~ the applicant, ~~such~~ the new license ~~shall~~ may be issued only upon the same showing and under the same terms and conditions and upon payment of the same fee required for the issuance of an original license.

(3) All certificates of renewal ~~wherein~~ in which the applicant does not apply for a change in the field or class of license ~~shall~~ must be issued by the department to the applicant ~~forthwith~~ when the application is filed and the license renewal fee is paid.

(4) After cancellation of a license, ~~such~~ the licensee ~~shall~~ may not be relicensed during the current calendar year in which the offense was committed."

NEW SECTION. **Section 128. Repealer.** Sections 37-3-322, 37-4-306, 37-4-321, 37-4-323, 37-4-324, 37-4-404, 37-5-303, 37-5-304, 37-5-311, 37-6-310, 37-7-203, 37-7-304, 37-7-305, 37-7-311, 37-7-607, 37-7-608, 37-7-710, 37-8-407, 37-8-417, 37-8-430, 37-8-433, 37-8-441, 37-8-442, 37-9-303, 37-9-311, 37-10-204, 37-10-303, 37-10-308, 37-10-311, 37-11-202, 37-11-307, 37-11-309, 37-11-320, 37-11-321, 37-12-303, 37-12-321, 37-13-305, 37-13-311, 37-13-312, 37-13-313, 37-13-314, 37-14-304, 37-14-321, 37-15-305, 37-15-309, 37-15-321, 37-16-406, 37-16-411, 37-16-414, 37-17-304, 37-17-311, 37-17-318, 37-18-304, 37-18-311, 37-19-305, 37-19-311, 37-19-312, 37-19-316, 37-19-404, 37-20-409, 37-22-306, 37-22-311, 37-22-312, 37-23-204, 37-23-207, 37-23-211, 37-23-212, 37-24-305, 37-24-307, 37-24-309, 37-25-306, 37-26-404, 37-26-408, 37-26-409, 37-26-410, 37-27-213, 37-27-216, 37-28-206, 37-28-210, 37-28-301, 37-29-311, 37-29-312, 37-29-313, 37-29-321, 37-30-306, 37-30-309, 37-30-502, 37-31-306, 37-31-307, 37-31-332, 37-32-303, 37-32-310, 37-34-304, 37-34-306, 37-34-308, 37-40-303, 37-40-311, 37-47-341, 37-47-342, 37-47-343, 37-47-346, 37-50-321, 37-50-322, 37-50-336, 37-51-206, 37-51-321, 37-51-322, 37-51-604, 37-51-606, 37-53-501, 37-53-502, 37-53-503, 37-54-401, 37-54-402, 37-54-406, 37-54-417, 37-60-212, 37-60-307, 37-60-308, 37-60-321, 37-60-322, 37-62-101, 37-62-102, 37-62-201, 37-62-202, 37-62-203, 37-62-204, 37-62-205, 37-62-206, 37-62-207, 37-62-208, 37-62-209, 37-62-212, 37-62-213, 37-62-301, 37-62-302, 37-62-303, 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323, 37-67-312, 37-67-313, 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309, 37-69-320, 37-69-322, 39-5-101,

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE T. SIMON**, on February 15, 1995, at 8:00 AM.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: Rep. Bob Pavlovich

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 495, HB 527, HB 487, HB 518, HB 488
Executive Action:	HB 458, HB 401, HB 510, HB 495, HB 527, HB 488

HEARING ON HB 495

Opening Statement by Sponsor:

REP. ROYAL C. JOHNSON, HD 10, Yellowstone County said this bill was an act for economic development and to help small business in the state. The gambling industry is much more profitable if they

Mr. Visocan said there were out-of-state owners who had retail outlets and do not have refineries in Montana.

CHAIRMAN SIMON said in reviewing the charts which were distributed, the price for gasoline in Utah was 57.73 and in Montana the price was 18 cents higher. If Flying J buys their product in Utah and delivers to Montana plus the cost of their transportation, potentially their price would be lower by virtue of the fact they bought their product in Utah. **Mr. Visocan** said yes.

Closing by Sponsor:

The sponsor closed.

HEARING ON HB 518

Opening Statement by Sponsor:

REP. CARLEY TUSS, HD 46, Cascade County said this was an act establishing uniform procedures for licensing and the general regulation of professional boards. The genesis of this bill was the frustration of this committee in a session two years ago when there were requests for statutory changes and permission for the boards to proceed in various kinds of activities over their own boards. She then presented amendments to the bill.

Proponents' Testimony:

Steve Meloy, Bureau Chief, Professional and Occupational Licensing, Department of Commerce, provided written testimony from various boards in their favor of this bill. **EXHIBIT 10**

Leo Giacometto, Governor's Office, said he supported this bill because it is something which needs to be done and has been needed for quite some time. It is also one of the proposals mentioned in the Task Force. There were many hearings on this issue and it is a good piece of legislation and one which would streamline government.

Mona Jamison, Montana Speech, Language, Hearing Association and the Montana Association of Clinical Laboratories and Scientists and the Montana Association of Physical Therapists, said there were many proposals in the Task Force that were made which were discussed. This was the proposal that those groups which had been represented were found to have a solid proposal. It cuts down on the length of statutes, consolidates rulemaking, provides boards with less rulemaking. There is concern of the coordination construction in the bill.

Lance Melton, Attorney, Department of Commerce, said the amendments clarify language in the bill and improve it.

Robin Cunningham, Board of Outfitters, said they support this bill.

Shirley Wareheim, Montana Society of Certified Public Accountants, provided her testimony regarding various sections of the bill. **EXHIBIT 11**

Mark Staples, Montana Chiropractic Association, said they support this bill.

Farrell Rose, Vice Chairman, Real Estate Appraisal Board, stated his support of this bill.

Chris Herbert, Dental Hygienists Association, said she favored this bill.

Ben Havdahl said it appeared this bill presents an excellent opportunity to improve the ability of the Board of Hearing Aid Dispensers to operate more effectively and efficiently. **EXHIBIT 12**

Opponents' Testimony:

None.

Informational Testimony:

SEN. STEVE BENEDICT, EXHIBIT 13

Questions From Committee Members and Responses:

REP. PAVLOVICH questioned the concerns of **Mr. Havdahl** and the effective date. **Mr. Melton** said the concerns expressed by **Mr. Havdahl** seem to be the same concerns of **Ms. Jamison**. They did not want to undo changes which have just been accomplished. They would be amenable to putting in a coordination instruction which would say those sections would not be repealed. The Department believes these changes are necessary immediately.

REP. COCCHIARELLA questioned the coordination issue, continuing education and expanding the continuing education. **Mr. Melton** said the boards understand these standardized procedures are essentially going to be the last issue addressed in the standardized act. If there are necessary changes to these 20 sections, a consensus would be required of the boards in terms of deciding whether it is truly necessary to disturb the act in order to improve it. If there were a real problem this would occur. The act addresses continuing education, temporary licensure, licensure of individuals from other states, inactive status and disciplinary procedures.

CHAIRMAN SIMON questioned the levy of fines up to $1000, working without a license and the standards imposed. **Mr. Melton** said a civil fine not to exceed $5000 with the amendments would improve

this bill. The authorization of an administrative fine is different from the other administrative fining bills because this indicates that upon a decision that a licensee is violated and not able to practice with reasonable skill and safety must be followed by a hearing or pursuant to an agreement by the licensee. The bill specifies the board may, under the guidelines, develop rules regarding continuing education, etc.

Closing by Sponsor:

The sponsor closed.

TAPE 2, SIDE B

HEARING ON HB 488

Opening Statement by Sponsor:

REP. TUSS said this bill denies insurance companies the right from using credit as a sole determent of whether that person is insurable for auto insurance and homeowners insurance. There are people who have been denied automobile insurance based upon adverse credit. It also affects people who have applied for home owners insurance. A credit history is limited to a debt history and does not include any other public information. She also supplied copies of letters from the Intermountain Mortgage Company and Trinity Universal Credit Analysis. **EXHIBIT 14**

Proponents' Testimony:

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana, said they support this bill. Credit history should not be the sole criteria used in underwriting of an insurance policy for personal auto and homeowners.

Jacqueline Lenmark, American Insurance Association, said she was also speaking for **Larry Akey, National Association for Independent Insurers.** They supported this bill and will continue to support it as long as they are permitted to use credit history in some measure in rating a policy. That is an important factor but it should not be used as the sole factor.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

The sponsor closed.

EXHIBIT 10
DATE 2-15-95
HB 518

MONTANA
DEPARTMENT OF COMMERCE

Professional and Occupational Licensing
Board of Nursing
111 North Jackson PO Box 200513
Helena, MT 59620-0513

Phone: (406) 444-2071
FAX: (406) 444-7759
TDD: (406) 444-2978

TO: Steve Meloy, Bureau Chief, POL

FROM: Dianne Wickham RN, MN, Executive Director Dianne Wickham

RE: HB 518

DATE: February 14, 1995

At a February 14, 1995 Board of Nursing meeting held by teleconference, the Board took the action of voting to support HB 518.

Thank you.

cc: Lance Melton, Legal Counsel

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

montana cpas
Montana Society of Certified Public Accountants
Diamond Block Building • 44 West Sixth Avenue • Post Office Box 138 • Helena, Montana 59624-0138 • Telephone 406/442-7301
Fax 406/443-7278

EXHIBIT 11
DATE 2-15-95
HB 518

MONTANA SOCIETY OF CPAs CONCERNS ABOUT HOUSE BILL 518

SECTION 6 - CONTINUING EDUCATION

- The words flexible, cost efficient, effective and geographically accessible are open to interpretation.
- MSCPA supports clarifying or eliminating this language from the bill.

SECTION 8 - DEPARTMENT AUTHORITY (paragraph 3)

- Would prove burdensome under current 5 member board structure.
- Would vest an unnecessarily large time and responsibility commitment on the part of two member screening panel.
- May necessitate an increase in the size of the board of public accountants which would require legislation in 1997 session.

SECTION 17 - UNPROFESSIONAL CONDUCT

- Too expansive to be relevant to all professions encompassed by the bill.
- Certain subsections appear to be relevant to all professions (i.e. fraud, conviction of a serious crime).
- Other subsections appear to be relevant only to specific professions.
- MSCPA supports elimination of language which is not relevant to all professions.
- Individual licensing boards can adopt profession-specific rules of conduct.

EFFECTIVE DATE

- October 31, 1995 as proposed in bill.
- MSCPA supports deferral of effective date until October 31, 1997 to allow time for possible restructuring of the board.

EXHIBIT 12
DATE 2-16-95
HB 518

February 16, 1995
Statement on HB 518
House Business and Labor Committee
Ben G. Havdahl, Consumer Member
Board of Hearing Aid Dispensers

Mr. Chairman and members of the committee. For your record my name is Ben Havdahl and I reside at 534 Diehl Drive in Helena.

I am appearing as a proponent on HB 518 dealing with occupational licensing boards. Although I have served for the past four and one half years as the consumer member of the Board of Hearing Aid Dispensers, I do not consider myself to be an expert. However, after reading the bill and relating to my experience on the Board, I decided to offer my comments for what they maybe worth to the committee.

HB 518 proposes many changes in the way all Boards will be operating, if it is adopted. It makes uniform many more or less standard provisions in the law followed by Boards. From my own reading of the bill and listening to the testimony presented by the department, I think the changes are for the better and will improve the ability for the Board I am on as well as others to deal with complaints and disciplinary action meted out to deserving licensees.

As it applies specifically to the Board of Hearing Aid Dispensers, two or three questions come to my mind. This committee passed SB 95, dealing with changing provisions in the law affecting the Board of Hearing Aid Dispensers.

Section 37-16-202 is amended by this bill, deleting the power of the Board of Hearing Aid Dispensers to deal with complaints and grievances. SB 95 amended the same section granting the Board the power to "initiate" complaints against a licensee.

HB 518, in the new section 9 on page 6, covers complaints to the department from a person, government, or private entity but does not seem to provide for the Boards to "initiate" complaints. It is at least not clear to me if that language includes the Boards.

Section 9 also seems to require that complaints be made to the department and not directly to the Boards. Yet in section 2 on page 3, the definition of "complaint" means a written allegation filed with a board that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant. This language seems to be shifting the responsibility for dealing with complaints to the department and away from the Boards. I feel this needs to be clarified as it may be confusing.

The other two sections amended in HB 518 of the law dealing with the Board of Hearing Aid Dispensers concern administrative matters and appear to be consistent with the current law.

HB 518 repeals three sections of the law affecting the Board of Hearing Aid Dispensers. One 37-16-406, dealing with admissions of licensees from other states and although SB 95 amended this section, HB 518 appears to me to be consistent with those amendments.

Section 37-16-411, dealing with the revocation or suspension of licenses and fines is being repealed by HB 518. The new language in sections 16, 13 and 17 in HB 518 appear to be an improvement. I feel that the bill will enable the Board to do an even better job administering this portion of the law if HB 518 is passed.

Section 37-16-414, the restitution provision in the Board of Hearing Aid Dispenser law is being repealed and that provision is effectively covered in section 13 of HB 518.

So, it appears to me that HB 518 presents an excellent opportunity to improve the ability of the Board of Hearing Aid Dispensers to operate more effectively and efficiently. I have to presume that is also true of the other Boards. Thank you.

EXHIBIT 13
DATE 2-15-95
HB 518

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE STEVE BENEDICT

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620

HOME ADDRESS:
P.O. BOX 668
HAMILTON, MONTANA 59840

COMMITTEES:
BUSINESS & ECONOMIC DEVELOPMENT
EDUCATION
LABOR

December 1, 1993

Mr. Jon Noel, Director
Department of Commerce
1424 9th Avenue
Helena MT 59620

Dear Mr. Noel:

Please be advised that the House Business and Economic Development Committee is very interested in considering various proposals to reduce and or eliminate state involvement in many state board and licensing activities. It is a matter of serious concern to our legislative committee that the state is over involved in time consuming resolutions of conflicts among the different boards and the constant changes in licensing regulations requested by the various factions represented on these boards.

We are asking the Department of Commerce to develop proposed legislation to be considered by the 1995 legislative session that would address board consolidation, dispute resolution, uniform licensing procedures, reduction of fees, privatization of many board functions, and other efficiencies appropriate to this process of streamlining state boards and licensing procedures. We are further requesting a full public process for these proposals that would enable all affected parties to voice their concerns.

Thank you for your continuing interest and support of a more efficient and focussed state government

Sincerely,

Steve Benedict, Chairman
House Business and Economic
Development Committee
Representative
HD 64

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor DATE 2/15/95

BILL NO. 518 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Steven Shapiro	MT Nurses Assn	X	
A. Farrell Rose	Board of R/E Appraisers	X	
Steve Meloy	Dept of Comm	X	
Robin Cunningham	MT Board of Outfitters	X	
Ben Havdahl	MT Board of Hearing Aid Dispensers	X	
Lance Melton	Dept. of Commerce	X	
Al Cotten	MT Alcoholic Bev Assn	X	
Stuart Doggett	MT Veterinary Medical Assoc		
Shirley Warehime	Montana Society of CPA	X	
Tom McNab	Montana Technical Council	X	
Anne Alberts	MT. Assoc. of REALTORS	Monitor	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE T. SIMON**, on February 16, 1995, at 8:00 AM.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 549, HB 559, HB 557, HB 556
Executive Action:	HB 549, HB 557, HB 556, HB 518, HB 487
	HB 458 Remove from Table

HEARING ON HB 549

Opening Statement by Sponsor:

REP. DEBBIE SHEA, HD 35, Silver Bow County stated this bill was an act revising the laws relating to retail beer and table wine

Debby Berney, Professional Insurance Agents of Montana, said they supported the bill.

Denny Moreen, American Counsel of Life Insurance, supported the bill.

Tanya Ask, Blue Cross/Blue Shield of Montana, supported the bill.

Greg VanHorssen, State Farm Insurance Company, stated they supported the bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. EWER questioned the meaning of seasoned corporate bonds. **Mr. Coty** said this is a securities term which is the yield on bonds.

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON HB 556

Motion/Vote: **REP. SIMON MOVED HB 556 DO PASS. Motion carried 18-0.**

EXECUTIVE ACTION ON HB 518

Motion: **REP. TUSS MOVED HB 518 DO PASS. REP. TUSS MOVED THE AMENDMENTS.**

Vote: **Motion to adopt the amendments carried 18-0.**

Motion/Vote: **REP. TUSS MOVED HB 518 DO PASS AS AMENDED. Motion carried 18-0 on HB 518.**

VICE CHAIRMAN MILLS relinquished the chair to **CHAIRMAN SIMON.**

EXECUTIVE ACTION ON HB 487

Motion: **REP. SLITER MOVED HB 487 DO NOT PASS. REP. PAVLOVICH MADE A SUBSTITUTE MOTION ON HB 487 DO PASS.**

HOUSE OF REPRESENTATIVES

Business and Labor

ROLL CALL DATE 2-16-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chairman, Majority	X		
Rep. Bob Pavlovich, Vice Chairman, Minority	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		

MINUTES

MONTANA SENATE
54TH LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 14, 1995, at 8:00 a.m.

ROLL CALL

Members Present:
Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Terry Klampe (D)
Sen. Bill Wilson (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: Bart Campbell, Legislative Council
Lynette Lavin, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 335, HB 518, HB 536, HB 543
Executive Action: HB 335 BE CONCURRED IN
HB 428 BE CONCURRED IN
HB 536 BE CONCURRED IN

HEARING ON HB 335

Opening Statement by Sponsor:

REP. CAROLYN SQUIRES, HD 68, Missoula, presented **HB 335**. She urged the committee to pass **HB 335** known as the Montana Wheelchair Warranty Act. She announced often Montanans with disabilities purchased expensive wheelchairs or power chairs that experienced continual breakdown. She declared the impact of a faulty wheelchair for a person with a disability was enormous, and often repairs took a long time, caused the disabled individual to lose mobility, independence and productivity; sometimes the chair was not able to be repaired at all. She declared many of those persons were productive citizens. Medicaid purchased many of those chairs and she stated, clearly a

EXECUTIVE ACTION ON HB 335

Motion: **SEN. STEVE BENEDICT MOVED HB 335 BE CONCURRED IN.**

Discussion: **SEN. SPRAGUE** stated he had concerns about used chairs. He asked if it would be advantageous to discard all used chairs? **SEN. BENEDICT** stated when the manufacturer took the chair back, all he had to do was rebuild the chair and make a disclosure statement explaining the reason for return. He stated there would be no problem with donating or reselling as long as there was a disclosure statement included. He told the committee a wheel chair which had been used for three or four years did not have much value; however, wheelchairs returned to the manufacturer were a different story as the manufacturer needed to figure out what had to be done with that wheelchair. **SEN. BENEDICT** remarked; however, since he put a faulty piece of equipment on the market that should be his problem.

Vote: The motion **CARRIED UNANIMOUSLY** on oral vote.

HEARING ON HB 518

Opening Statement by Sponsor:

REP. CARLEY TUSS, HD 46, Great Falls, stated the legislature had heard many bills about licensing boards and there was a lot of variety in the way due process was applied. She declared at the request of the House Business and Industry Committee, **CHAIRMAN STEVE BENEDICT** asked the Department of Commerce to come up with uniform statutes which would guide the licensing boards. She conveyed the Department of Commerce and the Governor's Task Force on Reorganization had created **HB 518**. She presented her written testimony, **EXHIBIT #6**.

REP. TUSS also presented amendments to **HB 518**, **EXHIBIT #7**; those amendments were not available for the hearing in the House. She claimed the amendments clarified the scope of the act, retained important language which was in existing law and scheduled for repeal, coordinated **HB 518** with various other bills which had been introduced, and ensured due process for individuals who were facing action by their licensing board.

REP. TUSS stated the intent of the bill was to reduce the board's reliance on rulemaking authority. She expressed rulemaking authority was in the following areas -- defining professional conduct, continuing education, temporary licensure and inactive licensure. She alleged the umbrella should provide more consistency from one board to another. She related if there were disciplinary actions being contemplated, board members would be assigned to handle screening the complaint, and different board members would pass judgment about the validity of the complaint.

She said this act would cover 32 licensing boards; twenty-seven of the boards had indicated support and the other five were remaining neutral and had no objections to the bill.

Proponents' Testimony:

Steve Meloy, Bureau Chief of the Professional and Occupational Licensing Bureau, Department of Commerce, stated they were the agency which housed 34 regulatory boards and two programs. He declared they were self-sufficient in that all of the fees from the professions paid the cost of regulation, and they regulated all professions with exception of attorneys, insurance agents and teachers. He conveyed HJR 2 was tabled last session on the promise that the Department would try to fix what they had heard was wrong with the Professional and Occupational Licensing Board.

Mr. Meloy presented to members of the committee a cover letter, **EXHIBIT #8-A**, with a Background on **HB 518** letter, **EXHIBIT #8-B,** and Information regarding **HB 518** letter, **EXHIBIT #8-C.**

Mr. Meloy announced **HB 518** repealed 185 sections of existing law. Prior to executive reorganization in 1980, all of the boards were autonomous. He expressed this bill also removed language from an additional 107 existing sections of law. He related **HB 518** replaced the repealed and reduced sections with 19 standardized provisions applicable to all licensing boards.

Mr. Meloy claimed this bill increased due process to licensees by separating functions of licensing boards in investigation, charging and judging against a licensed professional under the board's jurisdiction. **Mr. Meloy** reported to the committee the quasi-judicial board, which had the ability to suspend or revoke a license, was allowed to hear the facts of the case without being involved with the processing of the initial case.

Leo Giacometto, Governor's Office, stated the Governor was very pleased with this bill. He announced hearings had been held across the state on this issue. He declared they thought this was a good way to streamline government, made it more effective, and also helped the licensing boards.

Howard Sumner, Montana Association of Realtors, stated their support of the bill.

Tom Harrison, Montana Society of CPA's, stated they supported **HB 518**. He stated a concern they had was with the small boards. He said the Accountancy Board had five members. He contended if they divided the board for investigative versus judicial efforts to accommodate the due process provisions of the bill, they would end up with only two people in one area. **Mr. Harrison** alleged this would necessitate a unanimous vote in one area.

Mona Jamison, Montana Chapter of the Physical Therapy Association, Montana Speech, Language and Hearing Association,

and the Montana Association of Clinical Laboratories, stated their support of this bill. She said uniformity would not only help the Department, but also serve the boards as well.

Ben Havdahl commented that for the past 4 1/2 years he had served as a consumer member on the Board of Hearing Aid Dispensers. He related a major function of that board, in addition to processing and licensing applicants, was dealing with disciplinary measures and handling complaints. Current law was complex and confusing.

Helen Christianson, Montana State AFL-CIO, conveyed their support of **HB 518** with amendments.

Stuart Doggett, Montana Veterinary Medical Association, spoke in support of the bill and raised a concern. He presented an amendment, **EXHIBIT #9,** which dealt with Section 16, (7), lines 24 and 25, page 9. They were concerned with the wording "whether the action is on appeal". They thought if the action was on appeal, it was likely there for a good reason, and they would like that phrase to state "provided the action is not on appeal".

Mr. Doggett also presented to the committee a packet of letters from other proponents (20 letters), **EXHIBIT #10.**

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

SEN. SPRAGUE asked **Mr. Meloy** why a fiscal note was not prepared and **Mr. Meloy** stated there wouldn't be a fiscal impact either way. He maintained there were approximately eight or nine bills currently before this session of the legislature which would not have been here if this bill had been current law. He said that was the net gain they were talking about in terms of impact. He said this bill would cause certain boards to write new rules; and they should be able to absorb the same within their existing budgets.

SEN. SPRAGUE asked if this bill consolidated any boards and **Mr. Meloy** stated five or six recommendations were made to the Governor's Task Force including terminating some boards. He declared the Task Force agreed to the elimination of two. He reported they had decided to eliminate Regulation of Polygraph Examiners and private employment agencies.

SEN. BENEDICT asked why they felt amendment 15 was necessary? **Lance Melton, Department of Commerce,** answered § 39-5-306, MCA, was scheduled for repeal which eliminated the licensing requirement for private employment agencies. **Mr. Melton** said section 39-5-306 was identified to them as being a very important, symbolic provision of the law which needed to be

retained in the law. He related they struck the section repealing it from the Code and amended it into the bill.

SEN. BENEDICT asked who expressed that desire to them.

{Tape: 1; Side: B}

Mr. Melton answered the Montana AFL-CIO had made the request.

SEN. BENEDICT asked for the history of that action. **Mr. Melton** related they visited with the Montana AFL-CIO after the passage of the bill in the House. He announced that was when this request was made.

SEN. BENEDICT commented they were then letting the Montana AFL-CIO help write the amendment and **Mr. Melton** stated he wrote the amendment without input from the Montana AFL-CIO other than identification of the specific provision which they were concerned about.

SEN. BENEDICT asked **REP. TUSS** for background information on amendment 5. **REP. TUSS** stated when the bill was drafted she asked for the word "shall" to be inserted instead of "may" with the provision that the person shall be licensed if their standards were substantially equivalent to the state from which they were coming from. After this passed in the House, she was approached by representatives from the Board of Dentistry and asked to change the wording to "may". She related their concern was that it would take too much time to ensure that the licensing exams were substantially equivalent.

SEN. BENEDICT asked if their concerns were directed toward hygienists or the profession in general and **REP. TUSS** answered she felt their concerns were directed toward the profession in general.

SEN. BENEDICT asked **REP. TUSS** if she had any problem with the amendment presented by Stuart Doggett? **REP. TUSS** commented she had not seen the amendment but she followed his testimony and had no problem with the amendment.

SEN. JOHN HERTEL stated this bill passed the House 100-0; however, he had received calls from a number of people concerned about the amendments. He said why were those amendments not presented to the House? He asked the sponsor if she felt the House would still pass the bill with the amendments? **REP. TUSS** stated the bill would pass the House with the amendments. She declared the bill was submitted for drafting early in the session, but due to the complexity of the bill it was not ready as soon as she would have liked. She claimed a lot of the amendments were simply clarifying the intent of the bill.

SEN. GARY FORRESTER stated he had a great deal of interest in the contractor's portion of this bill. He declared if the Governor's

Task Force considered eliminating something unnecessary, why wasn't the Public Contractors Licensing Board eliminated? **Mr. Melton** answered the Public Contractors Licensing Program was not attached to a licensing board. He explained at the time this task force proposal was being considered, the public contractors licensing function was administered by a different bureau within the Department of Commerce. **SEN. FORRESTER** stated this was left in strictly for monetary reasons. **REP. TUSS** stated there were other things equally serious which were overlooked. She asserted the purpose of this bill was to deal with occupational licensing boards. She suggested that **SEN. FORRESTER** amend the bill if he thought it would fit within the title.

SEN. TERRY KLAMPE stated this bill was a good first step. As a member of the Health Committee he had seen numerous problems with board composition, number of members, and turf battles. He asked **Mr. Meloy** if he would be interested in dealing with some of those problems in the next session? **Mr. Meloy** stated that was a real possibility. He maintained as far as board composition, it may be necessary to increase membership on certain boards. He didn't believe the legislature had a problem with the Board of Public Accountants increasing membership to seven persons.

Mr. Meloy reported some states were consolidating five or six professions under one board. He expressed this would be set up much like a legislative committee making decisions. He reported the turf wars were then fought out in an administrative level rather than a legislative level. He said the Task Force declined that recommendation. He alleged the professions around the state were opposed to being consolidated; an obvious example would be barbers and cosmetologists.

Regarding the public contractors issue brought up by **SEN. FORRESTER, Mr. Meloy** commented that the public contractor regulation was originally in the Department of Revenue. He said it was an excise tax to contractors. He believed there was some discussion among the contractors in which they agreed to pay the fee for their names to be on a list so that there would be a record of bonding. He told the committee it was shifted to the Commerce Department but not to the POL. He reported it went to Building Codes, and a board was not created nor was any regulation. He inquired if there was a public health, welfare and safety need for regulation? and if there was a need, there was plenty of money to fund it. He said if there wasn't a need, it should be eliminated.

<u>Closing by Sponsor</u>:

REP. TUSS offered no further remarks in closing.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 6
DATE 3-14-95
BILL NO. HB 518

To: Chairman Hertel
Committee Members
Senate Committee on Business and Industry

From: Representative Tuss
Representative, House District 46, Cascade County

Re: House Bill 518, proposed amendments

Date: March 13, 1995

I come before you today to present House Bill 518, a bill to create a uniform licensing and regulation process for all licensed professions housed in the Department of Commerce. House Bill 518 was generated in response to the recommendations of the Governor's Task Force for Renewal of Government, and is fully endorsed by the Governor through his acceptance of this Task Force recommendation. House Bill 518 passed on a 100-0 vote on third reading in the House, with some relatively minor amendments that were adopted by the House Business and Labor Committee.

Since its passage in the House, this bill has drawn some additional attention from effected groups who have come to me with requests for some minor amendments and requests for clarification. I have accepted these amendments as friendly, and ask that you consider these amendments with the bill. These amendments do not substantively alter the purpose or effect of the bill. They are primarily designed to do one of the following:

1. Clarify the scope of the act;
2. Retain important language in existing law that was scheduled for repeal under House Bill 518;
3. Coordinate House Bill 518 with other important bills making their way through the legislature; and
4. Clarify and ensure due process rights of individuals facing disciplinary action before a licensing board.

These amendments address concerns expressed to me after passage of House Bill 518. If accepted, I am confident that House Bill 518 will have strong support of effected groups. At this time, 28 of the 32 effected boards, in addition to a number of private associations, have expressed support for passage of House Bill 518.

With respect to clarification, I direct your attention to what House Bill 518 does and does not do. First, House Bill 518 proposes to repeal approximately 185 sections of the law, eliminate language from another 107 sections of the law, and replace the eliminated language with 19 standardized sections of the law dealing with traditional issues of licensing boards such as temporary licensure, licensure of individuals from other states, continuing education, and disciplinary actions against licensed professionals.

Section 4, for example, authorizes a board to grant licensure without examination to an individual from another state with substantially equivalent qualifications. A board could determine if the other state had substantial qualifications through a case by case analysis of each state's qualifications, or by development of reciprocal agreements with other states. Many boards already have such agreements in place pursuant to existing law.

House Bill 518 does not authorize boards to take action unless specified in the law. The subsection of section 19 on inactive licensure, for example, would authorize a board to grant inactive status, require compliance with any continuing education requirements, and limit the time an individual could remain on inactive status without re-establishing qualifications. It would not, however, authorize a board to charge fees (such as for the real estate recovery account fee of the Board of Realty Regulation) to an inactive licensee, other than fees for licensure and continuing education. The subsection of section 19 on continuing education provides an additional example of statutory guidelines under House Bill 518 that have been lacking in the past. The licensing boards would be able to regulate the enumerated items only, and would not, for example, be authorized to require annual testing of licensees as a part of a continuing education program.

I appreciate your consideration of House Bill 518 and the amendments. I urge you to recommend passage of this bill as amended.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 7
DATE 3-14-95
BILL NO. HB 518

Amendments to House Bill No. 518
Third Reading Copy

Requested by Rep. Tuss
For the Committee on Business and Industry

Prepared by Bart Campbell
March 13, 1995

1. Title, line 21.
Strike: "AND"
Following: "37-71-213,"
Insert: "AND 39-5-306"

2. Title, page 2, line 12.
Strike: "39-5-306,"

3. Page 3, line 5.
Strike: "should"
Insert: "must"

4. Page 4, line 8.
Following: "regulates."
Insert: "The provisions of this chapter must be construed to supplement the statutes relating to a specific board and the profession it regulates. The method for initiating and judging a disciplinary proceeding, specified in [section 7(1)(e)], must be used by a board in all disciplinary proceedings involving licensed professionals."

5. Page 4, lines 10, 18, and 26.
Strike: "shall"
Insert: "may"

6. Page 6, line 24.
Strike: "8"
Insert: "7"

7. Page 6, line 25.
Following: "and"
Insert: "may be"

8. Page 6, line 26.
Following: "board"
Insert: ", or by other means authorized by the Montana Rules of Civil Procedure"

9. Page 7, line 1.
Strike: "service"
Insert: "the licensee's receipt"

10. Page 7, line 5.
Following: "agencies"
Insert: "; the Montana Rules of Civil Procedure; and the Montana Rules of Evidence"

11. Page 7, line 9.
Following: "decides"
Insert: "by a preponderance of the evidence"

12. Page 10, lines 22 through 25.
Strike: subsection 18 in its entirety
Renumber: subsequent subsection

13. Page 12, line 20.
Strike: "."
Insert: ";"

14. Page 12, line 21.
Insert: "(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's licensing board, after a finding of reasonable cause by a screening panel of a board pursuant to [section 7(1)(e)]."

15. Page 84, line 21.
Insert: " **Section 1.** Section 39-5-306, "MCA, is amended to read:
"39-5-306. Agency not to refer applicant where strike or lockout exists. ~~No licensee shall~~ An employment agency may not refer an applicant to an employer where there is a strike or lockout at the place of proposed employment if ~~such licensee~~ the employment agency has knowledge that ~~such~~ the condition exists.""
Renumber: subsequent sections

16. Page 85, line 16.
Strike: "**instruction**"
Insert: "instructions"
Following: "."
Insert: "(1)"

17. Page 85, line 17.
Following: "."
Insert: "(2) Section 39-5-306 is intended to be renumbered and codified as an integral part of Title 39, chapter 33, part 2."

18. Page 85, line 20.
Following: "37-16-202"
Insert: "and 37-16-407"

19. Page 85, line 21.
Following: "VOID"
Insert: "and [section 60 of this act], amending 37-16-407, is void"

20. Page 85, line 22.
Strike: "A SECTION"
Insert: "sections"

21. Page 85, line 23.

EXHIBIT 7
DATE 3-14-95
HB 518

Strike: "AMENDS"
Insert: "amend"
Strike: "127"
Insert: "128"

22. Page 85, line 23 in two places.
Following: "37-16-406"
Insert: "and 37-16-411"

23. Page 85, line 25.
Strike: "AND"
Insert: ","
Following: "37-11-309,"
Insert: "37-11-320, and 37-11-321,"
Strike: "127"
Insert: "128"

24. Page 85, line 27.
Insert: "(4) If House Bill No. 196 is passed and approved and if it includes sections that amend 37-47-341 and 37-47-343, then that portion of [section 128] that repeals 37-47-341 and 37-47-343, is void.

(5) If Senate Bill No. 224 is passed and approved and if it contains a section that amends 37-51-321, then that portion of [section 128] that repeals 37-51-321, is void."

EXHIBIT NO. 8-A
DATE 3-14-95
BILL NO. HB 518

February 28, 1995

Senator Benedict
Senate Committee on Business and Industry

Subject: House Bill 518

Dear ~~Senator Benedict~~ Lynette:

Attached is information regarding House Bill 518, which will be heard in the Senate Business and Industry Committee at 8:00 a.m. on March 10, 1995. Please review the information at your convenience, and call on the Department with any concerns. We appreciate your consideration of House Bill 518, and hope to obtain the Committee's support for passage of House Bill 518.

Sincerely,

Stephen H. Meloy
Bureau Chief
Professional and Occupational Licensing Bureau
Phone: 444-1488

SENATE BUSINESS & INDUSTR
EXHIBIT NO. 8-B
DATE 3-14-95
BILL NO. HB 518

Background on House Bill 518 (Uniform Licensing Bill)

Quick Facts:

- Drafted pursuant to recommendation of the Governor's Task Force on Renewal of Montana Government.
- Specifically endorsed by Governor Marc Racicot.
- Passed out of the House Business and Labor Committee, with amendments, on an 18-0 vote.
- Passed on Third Reading in the House on a 100-0, unanimous vote.
- Repeals **185 existing sections** of the law.
- Removes language out of an additional **107 existing sections** of the law.
- Replaces the repealed and reduced sections with 19 standardized provisions applicable to all licensing boards in the Professional and Occupational Licensing Bureau.
- Increases due process of licensees by separating functions of licensing boards in investigating, charging and judging complaints against licensed professionals under the board's jurisdiction.
- Specifically endorsed by 27 of the 32 affected licensing boards. The remaining boards have either remained neutral, or have not formally considered the legislation. No licensing board is opposed to House Bill 518.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8-C
DATE 3-14-95
BILL NO. HB 518

Information regarding House Bill 518

I. Background

The ideas behind House Bill 518 originated at the end of the 1993 special legislative session of the Montana Legislature. During the special session, Representative Raney introduced a resolution to require a study of professional and occupational licensing. This resolution was withdrawn upon the Department of Commerce's offer to voluntarily study the licensing of professions and occupations regulated by the boards in the Professional and Occupational Licensing Bureau. At the same time, the House Business and Industry Committee requested a specific meeting with the chairs of each board administratively attached to the Professional and Occupational Licensing Bureau, to discuss the Legislature's frustration with repeatedly dealing with professional and occupational licensing issues. The Committee requested that the Department of Commerce attempt to address these concerns through legislation prepared for the 1995 general legislative session.

The Department of Commerce initiated a review of professional and occupational licensing, and submitted draft proposals for the review of the Governor's Task Force for Renewal of Montana Government, including a proposal for a uniform licensing and discipline act similar to the Washington Uniform Disciplinary Act. The Governor's Task Force issued a set of draft proposals in June of 1994. These draft proposals were disseminated to the public for comment shortly thereafter. The Task Force adopted its final proposals in October of 1994, after an exhaustive public hearing process involving hearings in Bozeman, Billings, Great Falls, Missoula, Helena, and Kalispell.

Governor Racicot adopted the final recommendations of the Task Force in early December, 1994, including the recommendation for a uniform licensing and discipline act drafted along the same lines as the Washington Uniform Discipline Act. Legal staff for POL immediately prepared a first draft of House Bill 518

II. Summary of the Bill

A. Length

House Bill 518 is approximately 85 pages long (in introduced form). The length, however, is deceptive, as the Bill simplifies and streamlines existing law. The first nineteen sections of the bill standardize professional and occupational licensing law in the areas of professional discipline, injunctive actions against unlicensed practice, temporary practice, continuing education, licensure of individuals from other states, and inactive licensure. House Bill 518 proposes to repeal 185 sections of existing law, and remove subsections out of another 107 sections. The bill also proposes to eliminate the licensure requirement for employment agencies and polygraph examiners. These repealed and reduced sections of the law would be replaced with nineteen standardized sections of the law that would apply to all professions regulated by the boards in POL. Pages 12 through 85 of the Bill, without exception, amount to a vast reduction in existing law.

B. Rulemaking

The first nineteen sections of House Bill 518 are more detailed than bills traditionally submitted to the Montana Legislature. The intent in going into such detail was to **reduce the boards' reliance on rulemaking** by statutorily specifying procedures effecting the due process of individuals facing disciplinary action by a licensing board. Out of the nineteen new sections proposed under Senate Bill, fifteen of the sections are specifically devoted to procedures for discipline of licensees and pursuit of injunctive action against unlicensed individuals. With these sections, there will no longer be any need for boards to develop rules on the procedural aspects of license discipline. The procedures are specifically detailed in the statute, and will mandate a process of license discipline that ensures adequate due process for the individual facing discipline. The remaining sections of the bill deal with licensure of individuals from other states, temporary practice permits, continuing education, and rulemaking authority.

Section 19 of House Bill 518 specifies the rulemaking authority of the boards in concise terms, with **specific statutory guidelines** currently lacking in the various sections proposed for repeal or reduction in the bill. This one section of the bill replaces rulemaking authority of the licensing boards that currently exists in a variety of forms that are scheduled for termination under the bill.

C. Due Process

House Bill 518 proposes a substantial change in the way that boards currently consider discipline of licensed individuals. Under current law, the boards are required to (1) determine whether a complaint should be investigated, (2) whether charges should be filed against an individual as a result of a complaint, and (3) whether the individual charged is guilty of the violation. Under House Bill 518, this process would be changed to provide increased due process for individuals facing discipline. Specifically, section 7 provides for a necessary separation of functions within the boards. Under these sections, **a board would assign specific members to a panel to determine whether to charge an individual with a violation**. Importantly, the board members making the decision to charge would be excluded from participating in the decision on whether the individual is guilty of the charges. **The ultimate decision would be made by individuals not previously exposed to the details of the case.** The decision in these cases would remain with the boards, but would eliminate the chance of a decision made by individuals previously invested in the idea of the licensee's guilt.

The Department is available to answer any concerns that may arise during consideration of this bill. Stephen H. Meloy, Bureau Chief of the Professional and Occupational Licensing Bureau, and Lance Melton, Legal Counsel, both have substantial knowledge of the details of the bill, and will be available for technical assistance of the Senate in considering House Bill 518. Mr. Meloy can be reached at 444-1488. Mr. Melton can be reached at 444-4316.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 9
DATE 3-14-95
BILL NO. HB 518

(Presented by Stuart Doggett)

PROPOSED AMENDMENT TO HB 518
by Montana Veterinary Medical Association- 3/14/95

Page 9: Line ~~18~~ 24:
Strike: "whether"
Insert: "provided the"

Page 9: Line ~~20~~ 25
Insert: (after is) " not"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 10
DATE 3-14-95
BILL NO. HB 518
(Presented by Stuart Doggett)

RECEIVED
FEB 16 1995

MONTANA
DEPARTMENT OF COMMERCE
Professional and Occupational Licensing
Board of Medical Examiners
111 North Jackson PO Box 200513
Helena, MT 59620-0513

Phone: (406) 444-1284
FAX: (406) 444-1667
TDD: (406) 444-2978

February 16, 1995

The Hon. Bruce Simon, Chairman
House Business and Labor Committee
House of Representatives
State Capitol
Helena, MT 59620

Re: House Bill 518

Dear Representative Simon:

I have carefully reviewed House Bill 518 as it affects the Board of Medical Examiners and the professions regulated by the Board: Medical Doctors, Doctors of Osteopathy, Doctors of Podiatric Medicine, Acupuncturists, Physician Assistants-Certified, and Nutritionists.

In my opinion, the provisions of HB 518 will improve protection of the public without weakening the Board's ability to act on the public's behalf. At the same time, the bill will enhance the due process rights of the licensees regulated by the Board.

The bill is well thought out, well-organized, clear and concise. It will reduce the number of laws and rules under which licensing boards must act by taking a number of duplicative, ambiguous statutes and replacing them with a single, clear, statement of law. It will provide better consistency and uniformity among the different boards, thereby improving service to the consumer.

I believe this is a good and important bill, which deserves support. Thank you.

Very truly yours,

JAMES S. BONNET, M.D.
President Elect
MONTANA BOARD OF MEDICAL EXAMINERS

MONTANA
DEPARTMENT OF COMMERCE

Professional and Occupational Licensing
Board of Realty Regulation
111 North Jackson PO Box 200513
Helena, MT 59620-0513

Phone: (406) 444-2961
FAX: (406) 444-1667
TDD: (406) 444-2978

February 27, 1995

Mr. John Hertel
Chairman of the Senate Business
& Industry Committee
Montana Senate
Capitol Station
Helena, MT 59624

RE: House Bill 518
Uniform Professional and Occupational Licensing Bill

Dear Mr. Hertel:

I am writing on behalf of the Montana Board of Realty Regulation as Chairman of the Board. The Board has followed carefully the development of the Uniform Licensing Bill presently before your committee as House Bill 518. The Board members are in favor of the bill and wish to register our support.

As I am sure you are aware, the licensing laws for the various occupations have originated at various times and have many different variations, even though the general goal in all licensing is to protect the public and see that the persons who are practicing in the particular profession or occupation in question are qualified. It makes a great deal of sense to streamline and unify the process by passing a uniform bill addressing all of the licensing bodies. A uniform bill should make for easier interpretation and administration of the licensing laws and result in savings to the tax payers. A uniform bill should also save time in the future for the Legislature, as each separate licensing body would not be approaching the Legislature with their own particular needs or wants concerning licensing legislation. The particular concerns of a particular licensing body can be addressed in regulations developed by that agency, rather than have the agency look to the Legislature each time a minor change is needed.

In short, I think the uniform licensing bill is a good example of making government more efficient and should be supported whole

EXHIBIT
DATE 3-14-95
HB 518

heartedly by everyone concerned. Please consider this letter to be written testimony on House Bill 518. Thank you for your consideration.

Very truly yours,

Steven E. Cummings
Chairman
Board of Realty Regulation

February 21, 1995

TO: Lance Melton

FROM: Donita Mariegard Donita Mariegard

RE: HB 518

The Board of Optometry met on Friday, February 17, 1995 and discussed HB 518. The Board voted unanimously to support HB 518. If you have any questions concerning this matter, please let me know.

EXHIBIT 10
DATE 3-14-95
SB HB 518

To: Lance Melton

Dear Mr. Melton:

As Chairman of the Montana Board of Hearing Aid Dispensers I fully support HB 518.

Walt Hopkins
Chairman
Mt Brd of Hearing Aid Dispensers

Walt Hopkins

MONTANA
DEPARTMENT OF COMMERCE

Professional and Occupational Licensing
Board of Nursing
111 North Jackson PO Box 200513
Helena, MT 59620-0513

Phone: (406) 444-2071
FAX: (406) 444-7759
TDD: (406) 444-2978

TO: Steve Meloy, Bureau Chief, POL

FROM: Dianne Wickham RN, MN, Executive Director Dianne Wickham

RE: HB 518

DATE: February 14, 1995

At a February 14, 1995 Board of Nursing meeting held by teleconference, the Board took the action of voting to support HB 518.

Thank you.

cc: Lance Melton, Legal Counsel

EXHIBIT 10
DATE 3-14-95
HB 518

Statement in support of HB_____
February 15, 1995

My name is Jeannie Flechsenhar and I am a member of the State Board of Real Estate Appraisers. I am in favor of a uniform standard law for all State Regulatory Boards through the Department of Commerce.

I believe this uniform standard would not only save the attorneys time and effort, but it would also create a more efficient system for conducting business. Currently each regulating board has different laws on the books and nothing is consistent. This bill would also save the taxpapers money by not wasting legislative time constantly adjusting Board laws.

I urge you to support HB_____

Sincerely,

Jeannie Flechsenhar

Jeannie Flechsenhar
Box 385
Cascade, Mt. 59421
406-468-2792

M E M O R A N D U M

DATE: 2/10/95

TO: BRUCE SIMON-CHAIRMAN
HOUSE BUSINESS & LABOR COMMITTEE

FROM: GARY E. GRAY-BOARD PRESIDENT
BOARD OF PRIVATE SECURITY
PATROLMEN & INVESTIGATORS

SUBJECT: HOUSE BILL 518

****
****

The Board of Private Security is asking to go on record as being in full support of the Model Practice Act House Bill 518.

Gary E. Gray

BURNS

EXHIBIT 10
DATE 3-14-95
HB 518

[Board of Barbers]

[111 N Jackson
[Helena, Montana 59620-0407]

Fax Cover Sheet

DATE:	February 14, 1995	TIME:	1:09 PM
TO:	[Debbie Tomaskie] [Board of Barbers]	PHONE: FAX:	[Their phone number] [406-444-1667]
FROM:	[Amy S. Adler [Board Chairman	PHONE: FAX:	[406-347-5394] [406-347-5394]
RE:	[House Bill 518		
CC:			

Number of pages including cover sheet: [2]

Message

Dear Committee,

My name is Amy Adler and I am the Chairman of the Montana State Board of Barbers. I am writing to ask for your support on House Bill 518. This bill is vitally important to our board and many other boards within the Department of Commerce. This bill will allow us to be able to enforce some of the disciplinary actions that at present we have no control of and it will also help us to clarify some very vague rules that govern the Board of Barbers.

Before this bill can be voted on we would like to have a change made in Section 4 and 5. Legislative Council changed the wording from "may" to "shall". We need this changed back to "may" because if it is passed as it now reads, it will cause several of the boards to have to rewrite their laws and rules and this could be at great expense. If it is changed back to "may", it will then be left to each board to decide if they need to change their laws and rules.

Sincerely,

Amy Adler

Amy Adler

Board Chairman

State Board of Barbers

15 Vigilante Trail
Clancy, Montana 59634

Feburary 14, 1995

Bruce Simon, Chairman
Business and Labor Committee
Montana House of Representatives

Dear Representative Simon:

I would like to voice full support for House Bill 518 from the Board of Clinical Laboratory Science Practitioners.

Sincerely,

Jo Ann Schneider

Jo Ann Schneider, Chair
Board of Clinical Laboratory Science Practitioners

EXHIBIT 10
DATE 3-14-95
HB 518

PRICE RITE DRUG CENTERS

33 WEST MAIN BELGRADE, MONTANA 59714 (406) 388-4111
910 NO. 7th AVE. BOZEMAN, MONTANA 59715 (406) 587-0608

February 13, 1995

Business and Labor Committee
Montana State Capital
Helena, Montana

RE: HB 518

To Whom it may Concern,

Speaking on behalf of the Montana Board of Pharmacy, I encourage you to support HB 518, establishing uniform licensi

If you want to contact me personally please call me at my Bozeman Store. Thank you for your cooperation.

Sincerely,

Ed. Harrington Reg. Ph.

V.P. Montana Board of Pharmacy

JANET DAVIS & ASSOCIATES

TRANSWESTERN PLAZA • P.O. BOX 1821 • BILLINGS MONTANA 59103 • (406) 255-7120

JANET DAVIS, SRA, IFA
STATE RESIDENTIAL CERTIFIED #24

REAL ESTATE APPRAISERS
CONSULTANTS

February 13, 1995

Members of the Committee
House of Representatives
Helena, MT

RE: House Bill #518

Dear Members:

As a member of the Board of Real Estate Appraisers, I support this bill as it will make licensing laws more uniform, possibly less costly to administer and be less new legislation necessary for licensing boards in the future.

Sincerely,

Janet Davis

Janet Davis
Current Chairman
Board of Real Estate Appraisers

JD/kh

EXHIBIT 10
DATE 3-14-95
HB 518

February 14, 1995

Rep. Bruce Simon, Chairman
House Business and Labor Committee
Capitol Station
Helena, MT 59620

RE: HB 518

Dear Representative Simon,

The Board of Cosmetologists supports HB 518, we recommend a DO PASS from your committee.

Sincerely,

Mary Brown

Mary Brown, Chairman
Board of Cosmetologists

February 13, 1995

Honorable Representative Simon
Chair - House Business and Labor Committee

Dear Mr. Chairman,

The Montana State Board of Outfitters strongly supports H.B. 518. After careful review, it appears that the proposed additions, deletions, and changes to the law would work quite favorably in strengthening the regulatory process as it pertains to our industry. For that reason we urge you to continue your support of the bill.

Sincerely,

Kurt Hughes
Chair - Montana State Board of Outfitters

FAX # 406 444 1667
ATTN: LANCE

EXHIBIT 10
DATE 3-14-95
HB 518

February 13, 1995

Representative Bruce Simon
Chairman of House Business & Labor Committee
Capital Station
Helena, MT 59620

Honorable Bruce Simon:

The Board of Occupational Therapy wishes you to support HB 518 addressing uniform licensing.

This bill provides our Board with flexibility in which licensing language may be interpreted within the rule making process vs. legislative process.

HB 518 should allow issues affecting Occupational Therapy licensing to be handled at the Board level. We welcome this delegation.

Respectfully,

Lynn Davis

Lynn Davis, OTR/L
Chairman, Board of Occupational Therapy

LD/mb

BOARD OF PSYCHOLOGISTS
DEPARTMENT OF COMMERCE

ARCADE BLDG., LOWER LEVEL
111 N. LAST CHANCE GULCH

STATE OF MONTANA

(406) 444-5436

PO BOX 200511
HELENA, MONTANA 59620-0511

TO: Representative Bruce Simon
Chair
Business & Labor Committee

FROM: Pastor Jeff N. Olsgaard
Chairman
Board of Psychology

RE: House Bill 518
Uniform Licensing Bill

DATE: February 17th, 1995

Our board has reviewed the bill at hand and finds its overall effects to be a prudent move toward protecting the interests of the public.

Its broadening effects in the board's authority to address discipline concerns would be very helpful. To be able to define and refine unprofessional conduct in one of the fastest growing service sectors of our society would enhance the professionalism well established in our fine state.

Occasionally being forced into "all or nothing" judgments is problematic in addressing less than flagrant misconduct concerns. The options of establishing fines to compensate for legal representation and other costs incurred in "due process" would protect the public from such expenses. Such a disciplinary resource expands the continuum of possible resources our board could consider.

With such expanded authority comes responsibility which also seems appropriate, however burdensome. The need for a "screening committee" is well documented in the courts. Still, its effects on us are unclear at this time. For instance, we serve a large geographical area, but a small populated area. With a board made up of three professionals and two lay persons, we need three members for a quorum. It is not uncommon for a member of the board to be recused because of an association with a (possible) licensee being considered. Leaving 4 members to deliberate this would only allow for a single member to be unavailable as constituting the "screening committee" with everyone active in their responsibilities

EXHIBIT 10
DATE 3-14-95
HB 518

to the public on this board. To expand the size of our board would bring added cost burden to our department and to the public. We are also of mixed minds reading the bill on the need for a "screening committee" to service compilation of information for complaints *as well as* for the application process.

All this is to say that while the bill overall serves us well, there are some ramifications of which as yet are unsettled.

Thank you for this opportunity to provide you with some input from our board. Should other opportunities arise considering specific concerns, please do contact our office.

THANK YOU

phone 444-5436

February 13, 1995

Bruce Simon
Chairman
Business and Labor Committee

Dear Representative Simon;

This letter is to let you and your committee members know that the Board of Radiology totally supports H. B. 518.

Standardization of Rules and Regulations governing Boards is long over due. We need this Bill passed to achieve this standardization among the Boards.

Your support and that of the committee members will be greatly appreciated.

Sincerely,
Jim Winter, R.T.
Jim Winter, R.T.
Chairman
Board of Radiology

EXHIBIT 10
DATE 3-14-95
HB 518

DATE; February 13, 1995

TO; Bruce Simon, Chairman
House Business & Labor Committee
State Capitol

FROM: Joyce Asay, Chairperson
Board of Nursing Home Administrators

RE; Support letter HB 518

This letter is written in support of HB 518.

Our Board discussed simplifying legislation in regards to rule making, and how it could save our legislators time and our State Government money, as well as being less cumbersome for Board members. This concept was unanimously approved by our board members.

Please, Bruce, support HB 518.

Thank you for your time and consideration.

FAX DATE 2/13 # PGS
TO Lance Melton
CO. Dept. of Commerce FAX# 444-1667
FROM Melissa Tuemmler AVERY FX-10

February 13, 1995

Representative Bruce Simon, Chairman
House Business and Labor Committee
Capital Station, MT 59620

RE: House Bill 518

Representative Simon;

The Montana Board of Sanitarians supports HB 518. Please consider passage of this bill. Thank you.

Respectfully,

Melissa L. Tuemmler, R.S.
Chairperson
Montana Board of Sanitarians

Fax TRANSMITTAL

EXHIBIT 10
DATE 3-14-95
HB 518

CTA Architects Engineers
1500 Poly Drive, P.O. Box 1439, Billings, MT 59103
Telephone: 406/248-7455 Fax: 406/248-3779

DATE: 2/14/95

TO: Sharon McCullough

FROM: Keith Rupert, President, Board of Architects

RE: LC 1310, Uniform Licensing Bill

ENCL:

PAGE: 1 of 1

The Board of Architects supports LC 1310, Uniform Licensing Bill.

However, we do have a strong preference that the original language using "may" instead of "shall" in sections 4 and 5, be reinstated.

We believe whenever reasonable choices are left to the descretion of the Boards, the public will be better served, and fewer legislative changes will be required in the future.

BOARD OF RESPIRATORY CARE PRACTITIONERS
DEPARTMENT OF COMMERCE
111 N. JACKSON
STATE OF MONTANA
(406) 444-3737
HELENA, MONTANA 59620-0407

February 13, 1995

Representative Bruce Simon
Chairman - House Business and Labor Committee
State Capital
Helena, MT 59620

Dear Mr. Simon;

On behalf of the Montana Board of Respiratory Care Practitioners I would like to convey our Board's support of HB 518.

Our Board members have reviewed the proposal and feel this bill will provide us with additional support and merit when pursuing practice complaints. Sections of this bill, such as the requirement of establishing continuing education standards, will also enhance the quality and caliber of services provided by other Boards.

If you have questions or would like to discuss any aspects of this bill, please contact me at (406)657-4075.

Thank you for your time!

Rich Lundy, RRT
Chairman - Montana Board of Respiratory Care Practitioners.

DATE March 14, 1995

SENATE COMMITTEE ON B & A

BILLS BEING HEARD TODAY: HB 335 - Rep. Squires, HB 518 Rep Lus. HB 536 Rep Mills. HB 543 Rep. Wagner

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Kathy D. Collins	Self (consumer)	HB335	X	
Barbara Larsen	MonTECH	H.B335	Neutral	
Melissa Case	Coalition of Mtns Concerned w/ disabilities	HB 335	X	
Terry Krantz	SRS Medicaid	HB335	X	
Peggy Trenk	WETA	HB543	X	
Mona Jamison	MT Assoc. of PT's, Speech Path + audiol, Nurse Practitioners, + Clinical Laboratorians	HB 518	✓	
~~Leo Giacometto~~				
Leo Giacometto	Governors Office	HB518	✓	
Ben Havdahl	Self	HB518	✓	
Stuart Doggett	MT Veterinary Medical Assoc.	HB 518	✓ with amend	
Ron Campbell	DrugMart MSPA	HB 536	✓	
~~DENNIS TYERSON~~	AMCPA	HB536	✓	
John Wolfgram	Lone Mtn Pharmacy	HB536		
Bob Wilkins	MT Mining Inc	543	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE March 14, 1995

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 335 Rep. Squires HB 518 Rep. Tuss HB 536 Rep. Mills HB 543 Rep. Wagner

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
LANCE MELTON	DEPT. OF COMMERCE	518	X	
Steve Shapiro	Mont. Nurses Assoc.	518	X	
Don Judge	MT STATE AFL-CIO	HB543		X
Howard Sumner	MT Assc. Realtors	518	X	
STEVE MELOY	Dept of Comm	518	X	
Doris Spivey	SRCP	543		X
Jim Jensen	MEIC	543		✓
Helen Christensen	MT STATE AFL-CIO	518	X	
Steve Yeakel (AND)	MT Association of Acupuncture & Oriental Medicine MT Council for Maternal & Child Health	518	X X	
Tom MacFarlan	CURE Golden Sunlight Mine	543	X	
Peter Leroy	FBC	335	X	
Bill Olson	AARP	HB536	✓	
Jason Dykstra	MAP	HB335	X	
Ed Wendt III	MAP		X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Jim Smith — Mt Rx Assoc. — HB536 X

REGISTER.F10

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 22, 1995, at 8:00 a.m.

ROLL CALL

Members Present:

Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Terry Klampe (D)
Sen. Bill Wilson (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: Bart Campbell, Legislative Council
Lynette Lavin, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	None
Executive Action:	HB 488 BE CONCURRED IN AS AMENDED
	HB 518 BE CONCURRED IN AS AMENDED
	HB 574 BE CONCURRED IN AS AMENDED

EXECUTIVE ACTION ON HB 488

Motion: **SEN. STEVE BENEDICT MOVED TO FURTHER AMEND HB 488.**

Discussion: **SEN. BENEDICT** commented that there was a problem with amendment 2. **SEN. KEN MILLER** had a problem with striking the words "the reason". He related Page 3, line 12, of the bill stated the insurer sends written communication to the individual disclosing the reason why the insurance coverage was declined. The consensus of the committee was that the insured should be given the reason for the refusal of insurance coverage. He said the insurer did not know the reason because he did not prepare the credit report. He maintained the individual who was applying could go back to the credit bureau and receive the necessary information.

SEN. GARY FORRESTER stated the insurance company made the determination to deny insurance coverage.

SEN. CASEY EMERSON commented the client would not know the reason for denial. He said if the insurer stated the reason as a poor credit rating, the individual would know how to correct the situation.

Larry Akey, National Association of Independent Insurers, stated amendments 2 and 3 together would accomplish what the committee was hoping to accomplish. He related the insurer must notify the applicant in writing that their policy had been nonrenewed because of credit information pertaining to the applicant or the insured. He said their concern with the original language "the reason" was somewhat ambiguous and required the insurance company to provide information which they did not have access to.

SEN. FORRESTER asked who decided whether the credit risk was the problem and **Mr. Akey** commented they had no problem telling people they had been declined or nonrenewed because of credit information relating to the applicant. Their concern was an applicant wanting to know why his credit risk was a problem. He said the insurance company had no specifics on that information.

SEN. BENEDICT clarified page 3, line 13, the amendment would read, "the insurance coverage was declined, not renewed, or limited in scope or amount of coverage or benefits because of credit information relating to the applicant or the insured". He also clarified that he had no problem with amendment 4. He expressed on Page 3, line 15, the amendment would read, "(iii) upon subsequent request of the individual, mailed within 10 days of the receipt of the declination or nonrenewal, the insurer provided the individual with a copy of the credit report at issue within 10 days of receipt of the request."

Vote: The motion **CARRIED** on oral vote with **SEN.FORRESTER** and **SEN. BILL WILSON** voting **"NO".**

Motion/Vote: **SEN. BENEDICT MOVED HB 488 AS AMENDED BE CONCURRED IN.** The motion **CARRIED UNANIMOUSLY** on oral vote. **SEN. FORRESTER** will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 518

Motion: **SEN. BENEDICT MOVED TO AMEND HB 518. (Amendment document name hb051801.agp)**

Discussion: **SEN. WILSON** asked what was the "Heritage of Montana Enterprise Act". **SEN. BENEDICT** stated all duties and functions of the advisory council established by the Heritage Act could be preformed by an existing advisory board appointed by the

Governor. He related in an effort to make government more efficient the Governor requested this amendment.

SEN. EMERSON asked what the Heritage Act accomplished and **Lance Melton** stated he did not have much information other than the amendment would remove a duplicative program.

Vote: The motion **CARRIED UNANIMOUSLY** on oral vote.

Discussion: **Mr. Campbell** explained the new amendments HB051801.ABC. He maintained the amendment which just passed was incorporated into those amendments. **SEN. LYNCH** was concerned the bill clarified the Board of Realty could not retest licensed real estate agents and **Mr. Campbell** said amendment 20 would take care of this. It was his understanding that **REP. TUSS**, as well as the Department, had no problem with this amendment.

Motion: **SEN. BENEDICT MOVED TO SEGREGATE AMENDMENT 7 AND AMENDMENT 21.**

Discussion: **SEN. BENEDICT** explained that amendment 7 would go back to the original language of the bill which used the word "may" instead of "shall". He would also like to strike amendment 21.

Mr. Melton explained that if **SEN. BENEDICT** wanted to segregate amendments related to the issue of § 39-5-306, there would be other sections in those amendments which should also be segregated. He maintained this would be amendment 2 which was in the title and added the language 39-5-306 into the amended sections. Amendment 4 was identified. Amendment 21 was also identified. **Mr. Melton** stated amendment 23 would strike 39-5-306 from the repealer.

Mr. Campbell clarified that if **SEN. BENEDICT's** motion was accepted and passed, 39-5-306 would go back to being repealed.

SEN. WILSON stated that repeal of § 39-5-306 was not the intent of the sponsor. He maintained it was an oversight. He related it was not the wish of the sponsor to have that stricken from those amendments.

SEN. TERRY KLAMPE stated there were three good reasons not to strike amendment 7. He conveyed when the word "shall" was followed by discretionary language, this created an ambiguity which was not good to put into law. He related the second reason was by using "shall" the board was mandated to do something. "May" would give the board some discretion. He maintained the third reason was that it complicated the bill.

SEN. BENEDICT stated the bill was introduced with "shall". It was not introduced with "may".

REP. TUSS stated her original intent was to have "shall" instead of "may". They wanted the boards to use due process which would reflect consistency from one board to the other. Referring to amendment 21, she stated **SEN. WILSON** was correct, they repealed the section on professional occupational agencies. She said this section had never been used but was important to a number of people in the state. She asked the committee to retain that amendment.

SEN. BENEDICT stated he wanted to keep his motion to segregate amendments 7 and 21.

SEN. KLAMPE asked for a clarification on the word change affecting hygienists.

SEN. BENEDICT stated the reason the language was put in originally was to give the board discretion. He explained there was a tremendous problem between hygienists and dentists. He related if the dentists had power over the hygienists, they would use it. He said that was his reason for using the word "shall".

Vote: The motion **CARRIED UNANIMOUSLY** on oral vote.

Motion/Vote: **SEN. BENEDICT MOVED TO ADOPT THE AMENDMENTS TO HB 518 WITH EXCEPTION OF AMENDMENT 7 AND AMENDMENT 21. (AMENDMENT HB051801.ABC)** The motion **CARRIED UNANIMOUSLY** on oral vote.

Motion/Vote: **SEN. MILLER MOVED TO FURTHER SEGREGATE AMENDMENT 7 AND AMENDMENT 21 TO BE** discussed separately. The motion **CARRIED UNANIMOUSLY** on oral vote.

Motion: **SEN. MILLER MOVED AMENDMENT 7 BE CONCURRED IN.**

Discussion: **SEN. BENEDICT** asked **SEN. KLAMPE** if Title 2, Chapter 15, referred to the Board of Dentistry and **SEN. KLAMPE** stated it did.

SEN. BENEDICT asked if the Board of Dentistry regulated the licensure of out-of-state applicants and **SEN. KLAMPE** answered the Board of Dentistry regulated the licensure by having out-of-state applicants take tests.

SEN. BENEDICT asked if the Board of Dentistry issued temporary practice permits. **SEN. KLAMPE** stated they may.

SEN. BENEDICT asked why there would be a problem with leaving "shall" in the language on licensure of out-of-state applicants and temporary practice permits. **SEN. KLAMPE** stated there was an ambiguity with leaving "shall" in the language. He said when the word "shall" was followed by discretionary language, an ambiguity was created. He asserted the boards should have the power to make decisions. He related this would allow the Board of Dentistry to allow other dentists to come in from every state in the country.

SEN. BENEDICT commented the amended language would read that a board shall issue a license to practice without examination to a person licensed in another state if the board determined the other state's license standards, at the time of application to this state, were substantially equivalent to the standards in this state. He conveyed there was no reason to deny the license under the laws of this state governing the profession or occupation. He related this would give the boards the power to streamline the process and eliminate duplicity. **SEN. KLAMPE** stated the way to give power to the board was to use the word "may". He alleged the word "shall" mandates.

SEN. MIKE SPRAGUE commented the board could run into problems if a doctor from another state applied and there was some question of his record. He stated if he was currently licensed, he could still be under review and decide to leave that state. He stated would the board have the discretion of denying him access to this state as a place to practice if the word "shall" was left in the language?

SEN. BENEDICT stated the language was quite clear when it said "and there was no reason to deny the license under the laws of this state governing the profession or occupation." **Lance Melton** told the committee to refer to page 4, section 4, lines 14-16. He said this stated the license may not be issued until the board received verification from the state or states in which the person was licensed if the person was currently licensed and was not subject to pending charges or final disciplinary action for unprofessional conduct or impairment. He commented the only problem would be if there were consumer complaints which had not been investigated or determined.

SEN. EMERSON asked if using the word "may" would give the board the power to discriminate for any reason. **SEN. KLAMPE** stated the boards were set up in the best interests of the state.

SEN. BENEDICT stated that he served as Chairman of the House Business Committee in the last session. He told the committee one of the boards which went outside the scope of legislative intent was the Board of Dentistry.

{Tape: 1; Side: B}

CHAIRMAN JOHN HERTEL stated the vote would be a do pass on amendment 7 which would put the word "may" into the bill.

Vote: The motion **FAILED 6-3** on roll call vote **(#1)**.

Motion: **SEN. BENEDICT MOVED AMENDMENT 21 BE CONCURRED IN.**

Discussion: **SEN. BENEDICT** stated this was in current statute.

SEN. WILSON stated the sponsor commented that it was an oversight that it was stricken from the bill originally. He said it should be reinserted into the bill.

SEN. SPRAGUE asked for clarification of the amendment. He believed they would be telling an employment agency, which would be an independent business set up to create employment, to be sensitive to turf battles in the labor world. He thought this seemed an unrealistic requirement.

SEN. BENEDICT stated there had been times when they had not had the opportunity to take bad laws off the book. He explained that was why he opposed this amendment.

Vote: The motion **FAILED 6-3** on roll call vote **(#2)**.

Motion/Vote: **SEN. BENEDICT MOVED HB 518 BE CONCURRED IN AS AMENDED.** The motion **CARRIED 7-2** on oral vote with **SEN. FORRESTER** and **SEN. WILSON** voting **"NO". SEN. HERTEL** will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 574

Discussion: **Mr. Campbell** explained there were two sets of amendments. **SEN. WILSON's** amendments replaced everything the House floor amendments removed with respect to the first right of refusal. **SEN. EMERSON's** amendments were a lot like **SEN. WILSON's** with the exception of making this a true first right of refusal wherein the public would be bidding at the beginning and the employees had the right to match. He claimed the only difference would be amendment 9, at the bottom of page 2, where it stated "any person or entity . . . may file an application."

Motion: **SEN. EMERSON MOVED TO AMEND HB 574, AMENDMENT HB07402.ABC.**

Discussion: **SEN. EMERSON** stated his intent was that the board not allow a second bid to lower the bid.

Mr. Campbell stated that since the bill was so complex, the early sections of the bill may not fit in with this amendment.

SEN. WILSON commented that Section 6 of **SEN. EMERSON's** amendments stated any person or entity would be allowed to make a bid. He related it would appear to him this would be opened up to anyone who had the resources. He asserted someone with deep pockets could throw the current store manager out of the process. **Mr. Campbell** stated the two different sets of amendments were very different.

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL DATE 3-22-95

NAME	PRESENT	ABSENT	EXCUSED
STEVE BENEDICT, VICE CHAIRMAN	✓		
WILLIAM CRISMORE	✓		
CASEY EMERSON	✓		
GARY FORRESTER	✓		
TERRY KLAMPE	✓		
KEN MILLER	✓		
MIKE SPRAGUE	✓		
BILL WILSON	✓		
JOHN HERTEL, CHAIRMAN	✓		

SEN:1995
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CS-09

SENATE STANDING COMMITTEE REPORT

March 22, 1995

MR. PRESIDENT:
We, your committee on Business and Industry having had under consideration HB 518 (third reading copy -- blue), respectfully report that HB 518 be amended as follows and as so amended be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 9.
Following: ";"
Insert: "ELIMINATING THE HERITAGE OF MONTANA ENTERPRISE ACT;"
Following: "SECTIONS"
Insert: "17-7-502,"

2. Title, line 22.
Following: "SECTIONS"
Insert: "20-26-1401, 20-26-1402, 20-26-1403, 20-26-1404, 20-26-1407, 20-26-1408, 20-26-1409, 20-26-1410, 20-26-1411,"

3. Page 3, line 5.
Strike: "should"
Insert: "must"

4. Page 4, line 8.
Following: "regulates."
Insert: "The provisions of this chapter must be construed to supplement the statutes relating to a specific board and the profession it regulates. The method for initiating and judging a disciplinary proceeding, specified in [section 7(1)(e)], must be used by a board in all disciplinary proceedings involving licensed professionals."

5. Page 6, line 24.
Strike: "8"
Insert: "7"

6. Page 6, line 25.
Following: "violator"
Insert: ". The notice may be served"

7. Page 6, line 26.
Following: "board"
Insert: "or by other means authorized by the Montana Rules of

Amd. Coord.
Sec. of Senate

Sen. John Hertel
Senator Carrying Bill

Civil Procedure"

8. Page 7, line 1.
Strike: "service"
Insert: "the licensee's receipt"

9. Page 7, line 6.
Following: "~~Evidence~~"
Insert: "; the Montana Rules of Civil Procedure; and the Montana Rules of Evidence"

10. Page 7, line 9.
Following: "decides"
Insert: "by a preponderance of the evidence"

11. Page 9, line 24.
Strike: ", whether"
Insert: "if"

12. Page 9, line 25.
Following: "is"
Insert: "not"

13. Page 10, lines 22 through 25.
Strike: subsection (18) in its entirety
Renumber: subsequent subsection

14. Page 11, line 28.
Insert: " **Section 20.** Section 17-7-502, "MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106;

17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; ~~20-26-1403,~~ 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.) "
Renumber: subsequent sections

15. Page 12, line 20.
Strike: "."
Insert: ";"

16. Page 12, line 21.
Insert: "(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's licensing board after a finding of reasonable cause by a screening panel of the board pursuant to [section 7(1)(e)]."

17. Page 70, lines 24 and 25.
Strike: "The" on line 24 through "licensees" on line 25
Insert: "Except as provided in 37-51-302, the board may not require examinations of licensees"

18. Page 84, line 22.
Following: "Sections"
Insert: "20-26-1401, 20-26-1402, 20-26-1403, 20-26-1404, 20-26-

1407, 20-26-1408, 20-26-1409, 20-26-1410, 20-26-1411,"

19. Page 85, line 20.
Following: "37-16-202"
Insert: "and 37-16-407"

20. Page 85, line 21.
Strike: "58"
Insert: "59"
Following: "VOID"
Insert: "and [section 61 of this act], amending 37-16-407, is void"

21. Page 85, line 22.
Strike: "A SECTION"
Insert: "sections"

22. Page 85, line 23.
Strike: "AMENDS"
Insert: "amend"
Strike: "127"
Insert: "128"

23. Page 85, line 23 in two places.
Following: "37-16-406"
Insert: "and 37-16-411"

24. Page 85, line 25.
Strike: "AND"
Insert: ","
Following: "37-11-309,"
Insert: "37-11-320, and 37-11-321,"
Strike: "127"
Insert: "128"

25. Page 85, line 26.
Strike: "AND"
Insert: ","
Following: "37-11-309"
Insert: ", 37-11-320, and 37-11-321"

26. Page 85, line 27.
Insert: "(4) If House Bill No. 148 is passed and approved and if it includes sections that amend 37-67-312, 37-67-313, and 37-67-331, then the portion of [section 128] that repeals 37-67-312, 37-67-313, and 37-67-331 is void.
(5) If House Bill No. 196 is passed and approved and if it includes sections that amend 37-47-341 and 37-47-343, then the

portion of [section 128] that repeals 37-47-341 and 37-47-343 is void.

(6) If Senate Bill No. 224 is passed and approved and if it contains a section that amends 37-51-321, then the portion of [section 128] that repeals 37-51-321 is void."

27. Page 86, line 12.
Strike: "20"
Insert: "21"

-END-

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB 518 NUMBER 1

MOTION:

BCI amendment #7.

HB051801.ABC

NAME	AYE	NO
STEVE BENEDICT, VICE CHAIRMAN		✓
WILLIAM CRISMORE		✓
CASEY EMERSON		✓
GARY FORRESTER		✓
TERRY KLAMPE	✓	
KEN MILLER		✓
MIKE SPRAGUE	✓	
BILL WILSON	✓	
JOHN HERTEL, CHAIRMAN		✓
(motion failed — will omit #7 from amendments)		

SEN:1995
wp:rlclvote.man
CS-11

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB 518 NUMBER 2

MOTION:

BCI amendment #21. HB051801.ABC

NAME	AYE	NO
STEVE BENEDICT, VICE CHAIRMAN		✓
WILLIAM CRISMORE		✓
CASEY EMERSON		✓
GARY FORRESTER	✓	
TERRY KLAMPE	✓	
KEN MILLER		✓
MIKE SPRAGUE		✓
BILL WILSON	✓	
JOHN HERTEL, CHAIRMAN		✓
(motion failed - will omit #21 from amendments)		

SEN:1995
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CS-11

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 29, 1995 12:24 pm

Mr. Chairman: I move to amend HB 518 (third reading copy -- blue).

ADOPT V.V.

REJECT

Signed: _____
Senator Klampe

That such amendments read:

1. Page 4, lines 10, 18, 26.
Strike: "shall"
Insert: "may"

-END-

HB 518

Amd. Coord.

SENATE

HOUSE BILL NO. 518

INTRODUCED BY TUSS, HERTEL, HARPER, PAVLOVICH, LARSON, MILLS, MCGEE, FORBES, BENEDICT, ANDERSON, ECK, BARTLETT, COCCHIARELLA, SQUIRES, WELDON, BECK, MASOLO

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING UNIFORM PROCEDURES FOR THE LICENSING, DISCIPLINE, AND GENERAL REGULATION OF PROFESSIONS AND OCCUPATIONS REGULATED BY LICENSING BOARDS ADMINISTRATIVELY ATTACHED TO THE DEPARTMENT OF COMMERCE; ELIMINATING THE STATE LICENSE REQUIREMENT FOR EMPLOYMENT AGENCIES AND POLYGRAPH EXAMINERS; ELIMINATING THE HERITAGE OF MONTANA ENTERPRISE ACT; AMENDING SECTIONS 17-7-502, 37-1-101, 37-1-121, 37-1-131, 37-3-309, 37-3-313, 37-3-323, 37-3-403, 37-4-307, 37-4-402, 37-4-406, 37-5-307, 37-6-302, 37-6-303, 37-6-304, 37-6-311, 37-7-101, 37-7-302, 37-7-303, 37-7-321, 37-7-606, 37-8-409, 37-8-431, 37-9-101, 37-9-203, 37-9-302, 37-9-304, 37-9-305, 37-10-304, 37-11-303, 37-11-304, 37-11-308, 37-12-201, 37-12-307, 37-12-322, 37-13-306, 37-15-102, 37-15-202, 37-15-308, 37-16-202, 37-16-301, 37-16-407, 37-17-202, 37-17-306, 37-17-307, 37-18-202, 37-18-303, 37-18-305, 37-18-307, 37-19-301, 37-19-306, 37-19-401, 37-19-702, 37-20-302, 37-20-403, 37-22-304, 37-23-103, 37-23-202, 37-23-205, 37-24-202, 37-24-308, 37-25-307, 37-26-201, 37-26-403, 37-27-105, 37-28-201, 37-28-202, 37-28-203, 37-29-201, 37-29-303, 37-29-306, 37-29-403, 37-30-301, 37-30-305, 37-31-322, 37-32-305, 37-34-201, 37-34-305, 37-40-203, 37-40-304, 37-47-307, 37-50-203, 37-50-314, 37-50-317, 37-51-204, 37-51-306, 37-51-311, 37-53-211, 37-53-302, 37-54-105, 37-54-210, 37-54-211, 37-54-302, 37-54-310, 37-54-311, 37-60-202, 37-60-301, 37-60-312, 37-60-411, 37-65-306, 37-66-307, 37-67-202, 37-67-320, 37-68-201, 37-68-310, 37-68-312, 37-71-212, AND 37-71-213, MCA; REPEALING SECTIONS 20-26-1401, 20-26-1402, 20-26-1403, 20-26-1404, 20-26-1407, 20-26-1408, 20-26-1409, 20-26-1410, 20-26-1411, 37-3-322, 37-4-306, 37-4-321, 37-4-323, 37-4-324, 37-4-404, 37-5-303, 37-5-304, 37-5-311, 37-6-310, 37-7-203, 37-7-304, 37-7-305, 37-7-311, 37-7-607, 37-7-608, 37-7-710, 37-8-407, 37-8-417, 37-8-430, 37-8-433, 37-8-441, 37-8-442, 37-9-303, 37-9-311, 37-10-204, 37-10-303, 37-10-308, 37-10-311, 37-11-202, 37-11-307, 37-11-309, 37-11-320, 37-11-321, 37-12-303, 37-12-321, 37-13-305, 37-13-311, 37-13-312, 37-13-313, 37-13-314, 37-14-304, 37-14-321, 37-15-305, 37-15-309, 37-15-321, 37-16-406, 37-16-411, 37-16-414, 37-17-304, 37-17-311, 37-17-318, 37-18-304, 37-18-311, 37-19-305, 37-19-311, 37-19-312,

37-19-316, 37-19-404, 37-20-409, 37-22-306, 37-22-311, 37-22-312, 37-23-204, 37-23-207, 37-23-211, 37-23-212, 37-24-305, 37-24-307, 37-24-309, 37-25-306, 37-26-404, 37-26-408, 37-26-409, 37-26-410, 37-27-213, 37-27-216, 37-28-206, 37-28-210, 37-28-301, 37-29-311, 37-29-312, 37-29-313, 37-29-321, 37-30-306, 37-30-309, 37-30-502, 37-31-306, 37-31-307, 37-31-332, 37-32-303, 37-32-310, 37-34-304, 37-34-306, 37-34-308, 37-40-303, 37-40-311, 37-47-341, 37-47-342, 37-47-343, 37-47-346, 37-50-321, 37-50-322, 37-50-336, 37-51-206, 37-51-321, 37-51-322, 37-51-604, 37-51-606, 37-53-302, 37-53-501, 37-53-502, 37-53-503, 37-54-401, 37-54-402, 37-54-406, 37-54-417, 37-60-212, 37-60-307, 37-60-308, 37-60-321, 37-60-322, 37-62-101, 37-62-102, 37-62-201, 37-62-202, 37-62-203, 37-62-204, 37-62-205, 37-62-206, 37-62-207, 37-62-208, 37-62-209, 37-62-212, 37-62-213, 37-62-301, 37-62-302, 37-62-303, 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323, 37-67-312, 37-67-313, 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309, 37-69-320, 37-69-322, 39-5-101, 39-5-102, 39-5-103, 39-5-104, 39-5-105, 39-5-201, 39-5-202, 39-5-203, 39-5-204, 39-5-205, 39-5-206, 39-5-207, 39-5-208, 39-5-209, 39-5-301, 39-5-302, 39-5-303, 39-5-304, 39-5-305, 39-5-306, 39-5-307, 39-5-308, 39-5-309, 39-5-310, 39-5-311, 39-5-312, 39-5-401, 39-5-402, 39-5-403, 39-5-404, 39-5-405, AND 39-5-406, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is necessary for this bill because, although the bill deletes numerous grants of rulemaking authority in numerous sections of Title 37, the bill contains a single section allowing professional and occupational licensing boards to adopt rules. The purpose of replacing the numerous rulemaking authority grants with a single grant, as is the purpose with the rest of the bill, is to standardize the law in an attempt to reduce the number of rules and reduce variations in the rules from occupation to occupation.

The legislature takes note of the large number of bills proposed by and affecting professional and occupational licensing boards in Montana. A uniform licensing and disciplinary process needs to be established to permit the department of commerce and administratively attached licensing boards to administer the professional and occupational regulatory programs in a manner that is responsive to the public's needs. The public interest will be served by establishing uniform administrative provisions for these

HOUSE BILL NO. 518

INTRODUCED BY TUSS, HERTEL, HARPER, PAVLOVICH, LARSON, MILLS, MCGEE, FORBES, BENEDICT, ANDERSON, ECK, BARTLETT, COCCHIARELLA, SQUIRES, WELDON, BECK, MASOLO

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37-19-316, 37-19-404, 37-20-409, 37-22-306, 37-22-311, 37-22-312, 37-23-204, 37-23-207, 37-23-211, 37-23-212, 37-24-305, 37-24-307, 37-24-309, 37-25-306, 37-26-404, 37-26-408, 37-26-409, 37-26-410, 37-27-213, 37-27-216, 37-28-206, 37-28-210, 37-28-301, 37-29-311, 37-29-312, 37-29-313, 37-29-321, 37-30-306, 37-30-309, 37-30-502, 37-31-306, 37-31-307, 37-31-332, 37-32-303, 37-32-310, 37-34-304, 37-34-306, 37-34-308, 37-40-303, 37-40-311, 37-47-341, 37-47-342, 37-47-343, 37-47-346, 37-50-321, 37-50-322, 37-50-336, 37-51-206, 37-51-321, 37-51-322, 37-51-604, 37-51-606, ~~37-53-302,~~ 37-53-501, 37-53-502, 37-53-503, 37-54-401, 37-54-402, 37-54-406, 37-54-417, 37-60-212, 37-60-307, 37-60-308, 37-60-321, 37-60-322, 37-62-101, 37-62-102, 37-62-201, 37-62-202, 37-62-203, 37-62-204, 37-62-205, 37-62-206, 37-62-207, 37-62-208, 37-62-209, 37-62-212, 37-62-213, 37-62-301, 37-62-302, 37-62-303, 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323, 37-67-312, 37-67-313, 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309, 37-69-320, 37-69-322, 39-5-101, 39-5-102, 39-5-103, 39-5-104, 39-5-105, 39-5-201, 39-5-202, 39-5-203, 39-5-204, 39-5-205, 39-5-206, 39-5-207, 39-5-208, 39-5-209, 39-5-301, 39-5-302, 39-5-303, 39-5-304, 39-5-305, 39-5-306, 39-5-307, 39-5-308, 39-5-309, 39-5-310, 39-5-311, 39-5-312, 39-5-401, 39-5-402, 39-5-403, 39-5-404, 39-5-405, AND 39-5-406, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

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regulated professions and occupations that are designed to reduce the number of statutes and rules and variations in statutes and rules between professions or occupations and to promote public awareness of and access to the regulation of professions and occupations. It is the intent of the legislature to strengthen and consolidate disciplinary and licensure procedures for the licensed professions and occupations by providing a uniform disciplinary, licensing, and regulatory act, with standardized procedures for regulation, the purpose of which is to assure the public of the adequacy of competence and conduct in the regulated professions and occupations.

The rules ~~should~~ MUST provide for adequate due process for licensed persons involved in disciplinary proceedings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through ~~20~~ 19] is to establish uniform guidelines for the licensing and regulation of professions and occupations under the jurisdiction of professional and occupational licensing boards governed by [sections 1 through ~~20~~ 19].

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through ~~20~~ 19], the following definitions apply:

(1) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is administratively attached to the department as provided in 2-15-121.

(2) "Complaint" means a written allegation filed with a board that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(3) "Department" means the department of commerce.

(4) "Inspection" means the periodic examination of premises, equipment, or procedures or of a practitioner by the department to determine whether the practitioner's profession or occupation is being conducted in a manner consistent with the public health, safety, and welfare.

(5) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a written complaint or other information before a board, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the board;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether a board should seek an injunction.

(6) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation, regardless of the specific term, such as permit, certificate, recognition, or registration, used for the permission.

(7) "Profession" or "occupation" means a profession or occupation regulated by a board.

NEW SECTION. **Section 3. Scope.** [Sections 1 through ~~20~~ 19] govern the licensure, the practice and unauthorized practice, and the discipline of professions and occupations governed by this title unless otherwise provided by statutes relating to a specific board and the profession or occupation it regulates. THE PROVISIONS OF THIS CHAPTER MUST BE CONSTRUED TO SUPPLEMENT THE STATUTES RELATING TO A SPECIFIC BOARD AND THE PROFESSION IT REGULATES. THE METHOD FOR INITIATING AND JUDGING A DISCIPLINARY PROCEEDING, SPECIFIED IN [SECTION 7(1)(E)], MUST BE USED BY A BOARD IN ALL DISCIPLINARY PROCEEDINGS INVOLVING LICENSED PROFESSIONALS.

NEW SECTION. **Section 4. Licensure of out-of-state applicants.** A board ~~shall~~ MAY issue a license to practice without examination to a person licensed in another state if the board determines that the other state's license standards at the time of application to this state are substantially equivalent to the standards in this state and that there is no reason to deny the license under the laws of this state governing the profession or occupation. The license may not be issued until the board receives verification from the state or states in which the person is licensed that the person is currently licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or impairment.

NEW SECTION. **Section 5. Temporary practice permits.** (1) A board ~~shall~~ MAY issue a temporary practice permit to a person licensed in another state that has licensing standards substantially equivalent to those of this state if the board determines that there is no reason to deny the license under the laws of this state governing the profession or occupation. The person may practice under the permit until a license is granted or until a notice of proposal to deny a license is issued. The permit may not be issued until the board receives verification from the state or states in which the person is licensed that the person is

currently licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or impairment.

(2) A board ~~shall~~ MAY issue a temporary practice permit to a person seeking licensure in this state who has met all licensure requirements other than passage of the licensing examination. The permit is valid until the person either fails the first license examination for which the person is eligible following issuance of the permit or passes the examination and is granted a license.

NEW SECTION. **Section 6. Continuing education.** A board may require licensees to participate in flexible, cost-efficient, effective, and geographically accessible continuing education.

NEW SECTION. **Section 7. Board authority.** (1) A board may:

(a) hold hearings as provided in [sections 1 through ~~20~~ 19];

(b) issue subpoenas and administer oaths in connection with investigations and disciplinary proceedings under [sections 1 through ~~20~~ 19]. SUBPOENAS MUST BE RELEVANT TO THE COMPLAINT, ISSUED BY A MAJORITY VOTE OF BOARD MEMBERS NOT SERVING ON THE SCREENING PANEL DESCRIBED IN SUBSECTION (1)(E), AND SIGNED BY THE PRESIDING OFFICER OF THE BOARD. Subpoenas may be enforced as provided in 2-4-104.

(c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure in connection with an investigation, hearing, or proceeding held under [sections 1 through ~~20~~ 19];

(d) compel attendance of witnesses and the production of documents. Subpoenas may be enforced as provided in 2-4-104.

(e) ~~assign board members to a department~~ ESTABLISH A screening panel that determines whether there is reasonable cause to believe that a licensee has violated a statute or rule justifying disciplinary proceedings. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.

(f) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license holder, impose a sanction provided by this chapter.

(2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the

purpose of obtaining confidential criminal justice information regarding its licensees and license applicants.

~~NEW SECTION. Section 8. Department authority. The department may:~~

~~(1) employ investigative, administrative, clerical, and legal staff necessary to administer [sections 1 through 20];~~

~~(2) conduct investigations and inspections, issue subpoenas for the attendance of witnesses and the production of documents, administer oaths, and take depositions in the course of conducting investigations and inspections. Subpoenas may be enforced as provided in 2-4-104.~~

~~(3) establish a screening panel composed of department employees designated by the department and board members designated by a board before which a complaint is submitted under [section 9]. The designated employees may provide only technical assistance, information, and advice. The board members on the screening panel shall determine by majority vote whether an investigation is necessary and whether there is reasonable cause to believe that a licensee or license applicant has committed unprofessional conduct or has failed to qualify for licensure.~~

~~(4) issue a notice to and pursue action, before the person's licensing board, against a person after a finding of reasonable cause under subsection (3).~~

NEW SECTION. **Section 8. Unprofessional conduct -- complaint -- investigation -- immunity.** (1) A person, government, or private entity may submit a written complaint to the department charging a licensee or license applicant with a violation of [sections 1 through ~~20~~ 19] and specifying the grounds for the complaint.

(2) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have committed a violation of [sections 1 through ~~20~~ 19], the department may, WITH THE CONCURRENCE OF A MEMBER OF THE SCREENING PANEL ESTABLISHED IN [SECTION 7], investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation. A person or private entity, but not a government entity, filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint.

NEW SECTION. **Section 9. Notice -- request for hearing.** (1) If a reasonable cause determination

is made pursuant to [section ~~8~~ 7] that a violation of [sections 1 through ~~20~~ 19] has occurred, a notice must be prepared by department legal staff and served on the alleged violator. THE NOTICE MAY BE SERVED by certified mail to the current address on file with the board OR BY OTHER MEANS AUTHORIZED BY THE MONTANA RULES OF CIVIL PROCEDURE.

(2) A licensee or license applicant shall give the board the licensee's or applicant's current address and any change of address within 30 days of the change.

(3) The notice must state that the licensee or license applicant may request a hearing to contest the charge or charges. A request for a hearing must be in writing and received in the offices of the department within 20 days after ~~service~~ THE LICENSEE'S RECEIPT of the notice. Failure to request a hearing constitutes a default on the charge or charges, and the board may enter a decision on the basis of the facts available to it.

NEW SECTION. **Section 10. Hearing -- adjudicative procedures.** The procedures in Title 2, chapter 4, governing adjudicative proceedings before agencies~~; the Montana Rules of Civil Procedure; and the Montana Rules of Evidence~~; THE MONTANA RULES OF CIVIL PROCEDURE; AND THE MONTANA RULES OF EVIDENCE govern a hearing under [sections 1 through ~~20~~ 19]. A board has all the powers and duties granted by Title 2, chapter 4.

NEW SECTION. **Section 11. Findings of fact -- order -- report.** (1) If the board decides BY A PREPONDERANCE OF THE EVIDENCE, following a hearing or on default, that a violation of [sections 1 through ~~20~~ 19] occurred, the department shall prepare and serve the board's findings of fact and an order as provided in Title 2, chapter 4. If the licensee or license applicant is found not to have violated [sections 1 through ~~20~~ 19], the department shall prepare and serve the board's findings of fact and an order of dismissal of the charges.

(2) The department may report the issuance of a notice and final order to:

(a) the person or entity who brought to the department's attention information that resulted in the initiation of the proceeding;

(b) appropriate public and private organizations that serve the profession or occupation; and

(c) the public.

NEW SECTION. **Section 12. Sanctions -- stay -- costs -- stipulations.** (1) Upon a decision that a licensee or license applicant has violated [sections 1 through ~~20~~ 19] or is unable to practice with reasonable skill and safety due to a physical or mental condition or upon stipulation of the parties as provided in subsection (3), the board may issue an order providing for one or any combination of the following sanctions:

(a) revocation of the license;

(b) suspension of the license for a fixed or indefinite term;

(c) restriction or limitation of the practice;

(d) satisfactory completion of a specific program of remedial education or treatment;

(e) monitoring of the practice by a supervisor approved by the disciplining authority;

(f) censure or reprimand, either public or private;

(g) compliance with conditions of probation for a designated period of time;

(h) payment of a fine not to exceed $1,000 for each violation. Fines must be deposited in the state general fund.

(i) denial of a license application;

(j) refund of costs and fees billed to and collected from a consumer.

(2) A sanction may be totally or partly stayed by the board. To determine which sanctions are appropriate, the board shall first consider the sanctions that are necessary to protect or compensate the public. Only after the determination has been made may the board consider and include in the order any requirements designed to rehabilitate the licensee or license applicant.

(3) The licensee or license applicant may enter into a stipulated agreement resolving potential or pending charges that includes one or more of the sanctions in this section. The stipulation is an informal disposition for the purposes of 2-4-603.

~~(4) A board may, following a final decision resulting in discipline, recover all of the board's reasonable costs of the proceeding from the disciplined person if the board finds that the licensee or license applicant acted in bad faith in challenging the disciplinary action. Costs recovered must be deposited in the board's state special revenue account.~~

~~(5)~~(4) A licensee shall surrender a suspended or revoked license to the board within 24 hours after receiving notification of the suspension or revocation by mailing it or delivering it personally to the board.

NEW SECTION. **Section 13. Appeal.** A person who is disciplined or denied a license may appeal the decision to the district court as provided in Title 2, chapter 4.

NEW SECTION. **Section 14. Reinstatement.** A licensee whose license has been suspended or revoked under [sections 1 through ~~20~~ 19] may petition the board for reinstatement after an interval set by the board in the order. The board may hold a hearing on the petition and may deny the petition or order reinstatement and impose terms and conditions as provided in [section ~~13~~ 12]. The board may require the successful completion of an examination as a condition of reinstatement and may treat a licensee whose license has been revoked or suspended as a new applicant for purposes of establishing the requisite qualifications of licensure.

NEW SECTION. **Section 15. Enforcement of fine.** (1) If payment of a fine is included in an order and timely payment is not made as directed in the order, the board may enforce the order for payment in the district court of the first judicial district.

(2) In a proceeding for enforcement of an order of payment of a fine, the order is conclusive proof of the validity of the order of payment and the terms of payment.

NEW SECTION. **Section 16. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license applicant governed by this chapter:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government~~, whether~~ IF the action is NOT on appeal, under judicial review, or has been satisfied.

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) addiction to or dependency on a habit-forming drug or controlled substance as defined in Title 50, chapter 32, as a result of illegal use of the drug or controlled substance;

(11) use of a habit-forming drug or controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally;

(12) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(13) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(14) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(15) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(16) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(17) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

~~(18) engaging in or soliciting sexual conduct with a client during the existence of or during the 6 months following the end of a professional or occupational relationship with the client that involves giving health care to or a fiduciary responsibility toward the client or, if a psychotherapeutic relationship existed with the client, at any time during or after the existence of the professional relationship;~~

~~(19)~~(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards.

NEW SECTION. **Section 17. Practice without license -- investigation of complaint -- injunction -- penalties.** (1) The department shall investigate complaints concerning practice by an unlicensed person of a profession or occupation for which a license is required by this title. ~~In the investigation of the complaints, the department has the powers specified in [section 8].~~

(2) A board may file an action to enjoin a person from practicing, without a license, a profession or occupation for which a license is required by this title.

NEW SECTION. **Section 18. Violation of injunction -- penalty.** A person who violates an injunction issued under [section ~~18~~ 17] shall pay a civil penalty, as determined by the court, of not more than ~~$25,000~~ $5,000. Fifty percent of the penalty must be deposited in the general fund of the county in which the injunction is issued, and 50% must be deposited in the state general fund.

NEW SECTION. **Section 19. Rules.** A board may adopt rules:

(1) under the guidelines of [section 6], regarding continuing education and establishing the number of hours required each year, the methods of obtaining education, education topics, and carrying over hours to subsequent years;

(2) regarding practice limitations for temporary practice permits issued under [section 5] and designed to ensure adequate supervision of the practice until all qualifications for licensure are met and a license is granted;

(3) regarding qualifications for inactive license status that may require compliance with stated continuing education requirements and may limit the number of years a person may remain on inactive status without having to reestablish qualifications for licensure;

(4) regarding maintenance and safeguarding of client funds or property possessed by a licensee and requiring the funds or property to be maintained separately from the licensee's funds and property; and

(5) defining acts of unprofessional conduct, in addition to those contained in [section ~~17~~ 16], that constitute a threat to public health, safety, or welfare and that are inappropriate to the practice of the profession or occupation.

SECTION 20. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; ~~20-26-1403;~~ 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.)"

Section 21. Section 37-1-101, MCA, is amended to read:

"**37-1-101. Duties of department.** In addition to the provisions of 2-15-121, the department of commerce ~~shall~~ may:

(1) provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, taking applications for licenses, issuing and denying licenses granted by the boards, renewing licenses, disciplining licensees, registering, taking minutes of board meetings and hearings, and filing;

(2) standardize and keep in Helena all official records of the boards;

(3) make arrangements and provide facilities in Helena for the meetings, hearings, and examinations of each board or elsewhere in the state if requested by the board;

(4) administer and grade examinations required by each board or by law for licensing, unless the board determines that experts or professionals are necessary to administer or grade a particular examination;

(5) ~~at the request of a board,~~ investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the department;

(6) assess the costs of the department to the boards on an equitable basis as determined by the department;

(7) adopt rules ~~establishing expiration dates of licenses for barbers, barbershops, professional engineers, professional land surveyors, nursing home administrators, optometrists, plumbers, social~~

~~workers, speech-language pathologists, audiologists, and radiologic technologists~~ setting expiration, renewal, and termination dates for licenses~~.~~;

(8) ISSUE A NOTICE TO AND PURSUE AN ACTION AGAINST A LICENSED INDIVIDUAL, AS A PARTY, BEFORE THE LICENSED INDIVIDUAL'S LICENSING BOARD AFTER A FINDING OF REASONABLE CAUSE BY A SCREENING PANEL OF THE BOARD PURSUANT TO [SECTION 7(1)(E)]."

Section 22. Section 37-1-121, MCA, is amended to read:

"**37-1-121. Duties of director.** In addition to ~~his~~ the powers and duties under 2-15-112 and 2-15-121, the director of commerce shall:

(1) at the request of a party, appoint an impartial ~~legal counsel~~ hearing examiner to conduct hearings before each board within the department whenever any board holds a contested case hearing. The ~~legal counsel appointed shall see that~~ hearing examiner shall conduct hearings ~~are conducted~~ in a proper and legal manner.

~~(2) whenever the department conducts an investigation of a complaint of illegal or unethical conduct of a member of a particular profession or occupation as prescribed in 37-1-101(5) and if requested by the appropriate board, appoint an impartial member of that profession or occupation to assist the department in its investigation. The member so appointed may not be a member of the board having jurisdiction over the particular profession or occupation.~~

~~(3)~~(2) hire all personnel to perform the administrative, legal, and clerical functions of the department for the boards. Boards within the department do not have ~~no~~ authority to hire personnel.

~~(4)~~(3) approve all contracts and expenditures by boards within the department. ~~No~~ A board within the department may not enter into a contract or expend funds without the approval of the director."

Section 23. Section 37-1-131, MCA, is amended to read:

"**37-1-131. Duties of boards.** Each board within the department shall:

(1) set and enforce standards and rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within its jurisdiction;

(2) sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within its jurisdiction. The hearings ~~shall~~ must be conducted by ~~legal counsel~~ a hearing examiner when required under 37-1-121(1).

(3) suspend, revoke, or deny a license of a person who the board determines, after a hearing as provided in subsection (2), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system in violation of the provisions of Title 39, chapter 71 or 72;

(4) pay to the department its pro rata share of the assessed costs of the department under 37-1-101(6);

(5) consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion. The board may not expand a program if the board does not have adequate money and appropriation authority available."

Section 24. Section 37-3-309, MCA, is amended to read:

"**37-3-309. Application for license.** (1) A person desiring a license to practice medicine shall make application to the department, verified by oath and in a form prescribed by the board. The application ~~shall~~ must be accompanied by the license fee and documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by this chapter apart from an examination required by the board. The burden of proof is on the applicant, but the ~~board~~ department may make an independent investigation to determine whether the applicant possesses the qualifications and whether the applicant has committed unprofessional conduct. ~~At the board's request, the~~ The applicant shall provide necessary authorizations for the release of records and information pertinent to the ~~board's information~~ department's inquiry.

(2) An applicant for a license on the basis of an examination shall file ~~his~~ the application at least 60 days prior to the announced date of the examination. If the applicant is not at the time of filing ~~his~~ the application a graduate of but is then in attendance at an approved medical school, ~~he~~ the applicant shall submit to the department, instead of a diploma or other required evidence of graduation, a written statement from the dean or other authorized representative of the approved medical school that the applicant will receive ~~his~~ a diploma at the end of the then-current school term. The applicant may not be granted a certificate until ~~he~~ the applicant has filed with the department ~~his~~ a diploma or other acceptable evidence of graduation from the approved medical school and has complied with the requirements of subsection (1) ~~of this section, and no~~. A license may not be issued ~~to him~~ until ~~he~~ the applicant has satisfied the board that ~~he~~ the applicant has completed at least 1 year of an approved internship or its

equivalent and has otherwise met the requirements for the issuance of a license under this chapter."

Section 25. Section 37-3-313, MCA, is amended to read:

"**37-3-313. Annual registration fees -- failure to pay -- limiting authority to impose registration fees.** (1) In addition to the license fees required of applicants, a licensed physician actively practicing medicine in this state shall pay each year to the department an annual registration fee as prescribed by the board. ~~If a person licensed to practice medicine absents himself from the state for a period of 1 or more years or does not engage in active practice in this state, he may continue his license in good standing by payment each year of a fee prescribed by the board or, at the discretion of the board, he may be reinstated on the payment of a fee prescribed by the board for each year of absence or inactive practice.~~

(2) The annual payments for registration ~~shall~~ must be made prior to April 1, and a receipt acknowledging payment of the annual registration fee ~~shall~~ must be issued by the department. The department shall mail registration notices at least 60 days before the registration is due.

(3) In case of default in the payment of the annual registration fee by a person licensed to practice medicine who is actively practicing medicine in this state, ~~his~~ the underlying certificate to practice medicine may be revoked by the board on 30 days' notice given to the delinquent of the time and place of considering the revocation. A registered or certified letter addressed to the last-known address of the person failing to comply with the requirements of annual registration, as the address appears on the records of the department, constitutes sufficient notice of intention to revoke ~~his~~ the underlying certificate. ~~No~~ A certificate may not be revoked for nonpayment if the person authorized to practice medicine, and notified, pays the annual registration fee before or at the time fixed for consideration of revocation, together with a delinquency penalty prescribed by the board. The department may collect the dues by an action at law.

(4) ~~No~~ A registration or license fee may not be imposed on a licensee under this chapter by a municipality or any other subdivision of the state."

Section 26. Section 37-3-323, MCA, is amended to read:

"**37-3-323. Revocation or suspension of license ~~-- probation -- fine -- disposition of fine~~.** (1) The ~~board~~ department may make an investigation whenever it is brought to its attention that there is reason to suspect that a person having a license or certificate to practice medicine in this state:

(a) is mentally or physically unable to safely engage in the practice of medicine, has procured a

license to practice medicine by fraud or misrepresentation or through mistake, has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent, or has a condition that impairs the person's intellect or judgment to the extent that it incapacitates the person for the safe performance of professional duties;

(b) has been guilty of unprofessional conduct;

(c) has practiced medicine with a suspended or revoked license;

(d) has had a license to practice medicine suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(e) while under probation has violated its terms.

(2) The investigation must be for the purpose of determining the probability of the existence of these conditions or the commission of these offenses and may, upon order of the board, include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and scrutinize the hospital records and reports of a licensee as part of the examination, and copies must be released to the board on written request. ~~If the board has reasonable cause to believe that this probability exists, the department shall mail to the person's last address of record with the department a specification of the charges, together with a written notice of the time and place of the hearing on the charges, advising that the person may be present and may be represented by counsel if the person wants to offer evidence and be heard in the person's own defense. The time fixed for the hearing may not be less than 30 days from the date of mailing the notice.~~

~~(3) A person, including a member of the board, may file a written complaint with the department against a person having a license to practice medicine in this state charging that person with the commission of any of the offenses set forth in 37-3-322 or with any of the offenses or conditions set forth in subsection (1) of this section. The complaint must set forth a specification of the charges. When the complaint is filed, the department shall mail a copy to the person accused at the person's last address of record with the department, together with a written citation of the time and place of the hearing on it.~~

~~(4) At the hearing, the board shall adopt a resolution finding the accused guilty or not guilty of the matters charged. If the board finds that the offenses or conditions referred to in 37-3-322 or subsection (1) of this section do not exist with respect to the person or if the person is found not guilty, the board shall dismiss the charges or complaint. If the board finds that the offenses or conditions referred to in 37-3-322~~

~~or in subsection (1) of this section do exist and the person is found guilty, the board shall:~~

~~(a) revoke the person's license;~~

~~(b) suspend the person's right to practice for a period not exceeding 1 year;~~

~~(c) suspend its judgment of revocation on the terms and conditions to be determined by the board;~~

~~(d) place the person on probation;~~

~~(e) impose a fine, not to exceed $500 an incident; or~~

~~(f) take any other action in relation to disciplining the person as the board in its discretion considers proper.~~

~~(5) In a case of revocation, suspension, or probation, the department shall enter in its records the facts of the action and of subsequent action of the board with respect to it.~~

~~(6) On the expiration of the term of suspension, the licensee must be reinstated by the board if the suspended person furnishes the board with evidence that the person is then of good moral character and conduct, is restored to good health, and has not practiced medicine in this state during the term of suspension. If the evidence fails to establish to the satisfaction of the board that the holder is then of good moral character and conduct or restored to good health or if the evidence shows the person has practiced medicine in this state during the term of suspension, the board shall revoke the license, using the notice and hearing procedure provided in subsection (2). The revocation is final and absolute.~~

~~(7)~~(3) If a person holding a license to practice medicine under this chapter is by a final order or adjudication of a court of competent jurisdiction adjudged to be mentally incompetent or seriously mentally ill or addicted to the use of addictive substances, the person's license may be suspended by the board. The suspension continues until the licensee is found or adjudged by the court to be restored to reason or cured or until the person is discharged as restored to reason or cured and the person's professional competence has been proven to the satisfaction of the board.

~~(8) A fine imposed under this section must be deposited in the general fund.~~

~~(9) The remedies and method of enforcement of this part, as provided for in this section, are concurrent and in addition to the other remedies provided in this part.~~"

Section 27. Section 37-3-403, MCA, is amended to read:

"**37-3-403. Report of prohibition or limitation on practice by hospital.** Each hospital or health care facility ~~which~~ that prohibits or limits the privilege of a physician to practice medicine within that facility shall

report ~~such~~ the action to the state board of medical examiners within 30 days after the action is taken ~~if the action is based in whole or in part upon the commission of one or more of the offenses or the existence of one or more of the conditions set forth in 37-3-322 or 37-3-323(1)~~. The report ~~shall~~ must include the reason or reasons for the prohibition or limitation."

Section 28. Section 37-4-307, MCA, is amended to read:

"**37-4-307. Annual renewal fee -- default ~~--active, inactive status -- continuing education~~ -- local fees prohibited.** (1) Every licensed dentist shall pay each year a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. Notice of the change in the amount of renewal fees must be given to each dentist registered in this state by the department.

(2) Payment of the annual renewal fee must be made ~~prior to March 1 of~~ each year on or before the date set by department rule, and a license renewal must be issued by the department. A reasonable late fee ~~is~~ must be required by the department if the annual renewal fee is not timely paid ~~before March 1~~.

~~(3) The board may adopt rules governing requirements for demonstrating continued competency for license renewal.~~

~~(4) (a) The board may reclassify an active status license to inactive status for a licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dentistry because of physical disability or retirement.~~

~~(b) An individual who wishes to maintain a Montana license but does not maintain a resident practice must be licensed in the inactive status.~~

~~(c) Application to convert an inactive status license to an active status license must be made in accordance with rules of the board. The application to convert to active status must accompany the submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license was inactivated, satisfactory evidence of competence must be submitted to the board before an active status license may be issued.~~

~~(5) (a)~~(3) (a) In case of default in payment of the annual renewal fee by a licensee, ~~his~~ the license must be revoked by the board. The board shall give the licensee 30 days' notice of its proposed revocation action. The notice must be sent by certified letter addressed to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the revocation will be considered.

(b) If the licensee pays the renewal fee, plus a reasonable late fee set by the board, prior to the

time set for revocation, the license may not be revoked.

(c) A license revoked for nonpayment of the renewal fee may be reinstated within 5 years of revocation if:

(i) renewal fees are paid for each year they were unpaid, plus a late penalty fee for each year;

(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dentistry regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dentistry since the last payment of a renewal fee under this chapter; and

(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.

~~(6)~~(4) ~~Every~~ Each dentist shall give the board notice of any change in name, address, or status within 30 days of the change.

~~(7)~~(5) ~~No~~ A unit of local government, including those exercising self-government powers, may not impose a license fee on a dentist licensed under this chapter."

Section 29. Section 37-4-402, MCA, is amended to read:

"**37-4-402. License -- examination.** (1) The department may issue licenses for the practice of dental hygiene to qualified applicants to be known as dental hygienists.

(2) Except as provided ~~in 37-4-404~~ by rules adopted under [section ~~20~~ 19], ~~no~~ a person may not engage in the practice of dental hygiene or practice as a dental hygienist in this state until ~~he~~ the person has passed an examination approved by the board under rules it considers proper and has been issued a license by the department.

(3) Applicants for licensure shall take and pass an examination in order to be licensed. The examination shall consist of a written part and a practical or clinical part. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.

(4) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing ~~any such~~ examination procedures.

(5) Applicants for licensure shall submit an application, which ~~shall~~ must include, when required:

(a) certification of successful completion of the national board written examination;

(b) certification of successful completion of a regional board practical examination;

(c) two affidavits of good moral character;

(d) certificate of graduation from a board-approved dental hygiene school;

(e) an examination fee commensurate with costs and set by the board;

(f) a licensure fee commensurate with costs and set by the board;

(g) a recent photograph of the applicant; and

(h) copies of all other state licenses that are held by the applicant.

(6) Applications must be submitted no less than 20 days prior to the jurisprudence examination. Applicants may not take the jurisprudence examination without first having completed and passed all other parts of the examination.

(7) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass ~~his~~ the first examination, if otherwise qualified, may take a subsequent examination on payment of a fee commensurate with costs and set by the board.

(8) The board is authorized to adopt necessary and reasonable rules governing application procedures."

Section 30. Section 37-4-406, MCA, is amended to read:

"**37-4-406. Annual renewal fee -- default ~~-- active, inactive status -- continuing education~~ -- revocation of license -- local fees prohibited.** (1) ~~Every~~ Each licensed dental hygienist shall pay each year a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. ~~The renewal must be for either active or inactive status, as defined by rules of the board.~~

(2) Payment of the annual renewal fee must be made ~~prior to March 1 of each year~~ on or before the date set by department rule, and a license renewal must be issued by the department. A reasonable late fee ~~is~~ must be required if the annual renewal fee is not timely paid ~~before March 1~~.

~~(3) The board may adopt rules governing requirements for demonstrating continued competency for license renewal.~~

~~(4) (a) The board may reclassify an active status license to inactive status for a licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dental hygiene because of physical disability or retirement.~~

~~(b) An individual who wishes to maintain a Montana license but does not maintain a resident practice must be licensed in the inactive status.~~

~~(c) Application to convert an inactive status license to an active status license must be made in accordance with rules of the board. The application to convert to active status must accompany the submission of the renewal fee prescribed for such license. If more than 1 year has passed since the license was inactivated, satisfactory evidence of competence must be submitted to the board before an active status license may be issued.~~

~~(5)~~(3) In case of default in payment of the renewal fee by any licensee, the board must revoke the license.

(a) The board shall give the licensee 30 days' notice of its proposed revocation action. The notice must be sent by certified mail to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the revocation will be considered.

(b) The payment of the renewal fee on or before the time set for revocation, with a reasonable late fee set by the board, excuses the default.

(c) A license revoked for nonpayment of the renewal fee may be reinstated within 5 years of revocation if:

(i) renewal fees are paid for each year they were unpaid, plus a late penalty for each year;

(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dental hygiene regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dental hygiene since the last payment of a renewal fee under this chapter; and

(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.

~~(6)~~(4) ~~Every~~ Each dental hygienist shall give the board notice of any change in name, address, or status within 30 days of the change.

~~(7)~~(5) The board may, after a hearing, revoke or suspend the license of a dental hygienist for violating this chapter.

~~(8)~~(6) ~~No~~ A unit of local government, including those exercising self-government powers, may not impose a license fee on a dental hygienist licensed under this chapter."

Section 31. Section 37-5-307, MCA, is amended to read:

"**37-5-307. Renewal fee.** (1) A person holding a certificate to practice under this chapter and who

is in active practice in this state shall, on or before ~~April 1 of each year~~ the date set by department rule, pay a renewal fee prescribed by the board to the department~~, and a person holding a certificate to practice under this chapter who is not in active practice shall before April 1 of each year pay a renewal fee prescribed by the board to the department~~. ~~The~~ At least 2 weeks before the renewal date, the department shall ~~before March 15 of each year~~ send a notice to each person holding a valid certificate to practice under this chapter and from whom a fee is due stating that the fee is due.

(2) The certificate to practice under this chapter automatically becomes void when the renewal fee is not paid at the time named. However, the board may reinstate a practitioner whose certificate has lapsed on payment of back renewal fees or on payment of a maximum fee prescribed by the board if the lapsed fees exceed the maximum fee."

Section 32. Section 37-6-302, MCA, is amended to read:

"**37-6-302. Qualifications for licensure -- exemptions from examination -- temporary licenses.** (1) ~~Persons~~ A person who ~~wish~~ wishes to begin the practice of podiatry in this state shall make application, on a form authorized by the board and furnished by the department, for a license to practice podiatry.

(2) ~~No~~ A person may not be granted a license to practice podiatry in this state unless ~~he~~ the person:

(a) is of good moral character as determined by the board;

(b) is a graduate of a school of podiatry approved by the board;

(c) has completed at least 1 year of postgraduate training or has had equivalent experience or training approved by the board;

(d) has made a personal appearance before the board;

(e) has passed an examination administered by the national board of podiatry examiners and is a diplomate of the national board of podiatry examiners; and

(f) has obtained a score of at least 75% on an examination administered by the board.

(3) The board may waive the requirements described in subsections (2)(d) and (2)(f).

~~(4) A license without written examination may be granted to podiatrists of other states maintaining equal statutory requirements for the practice of podiatry and extending the same reciprocal privilege to this state if they have had a valid license and practiced for at least 2 preceding years in that state prior to filing for reciprocal privilege and by payment of a fee prescribed by the board to the department.~~

~~(5) The board may authorize the department to issue a temporary license to practice podiatry in appropriate cases, but no person may be granted a temporary license unless he:~~

~~(a) is of good moral character as determined by the board;~~

~~(b) is a graduate of a school of podiatry approved by the board;~~ ~~"~~

~~(c) has completed at least 1 year of postgraduate training or has had equivalent experience or training approved by the board; and~~

~~(d) has made a personal appearance before at least one member of the board.~~

~~(6) The board may authorize the department to issue a temporary or permanent license subject to probation or other conditions or limitations imposed by the board or may refuse to issue a license if the applicant has engaged in unprofessional conduct or is otherwise unqualified.~~"

Section 33. Section 37-6-303, MCA, is amended to read:

"**37-6-303. Examination -- subjects -- fees -- reexamination.** (1) A person who is not exempt from examination ~~under 37-6-302~~ and ~~desiring~~ who desires a license to practice podiatry ~~shall~~ must be examined in the following subjects: anatomy, chemistry, dermatology, physical diagnosis, materia medica, pathology, physiology, therapeutics, orthopedics, histology, bacteriology, pharmacy, neurology, surgery, shoe therapy, physiotherapy, roentgenology, and podiatric medicine. The minimum passing score is 70% for each subject tested and an average of 75% for all subjects tested.

(2) An examination and license fee prescribed by the board ~~shall~~ must be paid to the department.

(3) An applicant failing the examination and being refused a license is entitled within 6 months of the refusal to a reexamination, but one reexamination exhausts ~~his~~ the privilege under the original examination. An additional fee ~~shall~~ must be paid to the department for a reexamination."

Section 34. Section 37-6-304, MCA, is amended to read:

"**37-6-304. Designations on license -- recording -- renewal -- display.** (1) A license issued under this chapter is designated as a "registered podiatrist's license" or a "temporary podiatrist's license".

(2) Licenses must be recorded by the department the same as other medical licenses.

(3) Licenses must be renewed annually, on a date set by the ~~board~~ department.

(4) A license renewal fee set by the board must be paid annually on a date set by the ~~board~~ department.

(5) The department shall mail renewal notices no later than 60 days prior to the annual renewal date ~~set by the board under subsection (3)~~.

(6) If the annual renewal fee is not paid on or before the renewal date ~~set by the board under subsection (3)~~, the board may revoke the licensee's certificate after giving 30 days' notice to the licensee. A certified letter addressed to the delinquent licensee's last-known address as it appears on the records of the department constitutes notice of intent to revoke the certificate. ~~No~~ A certificate may not be revoked for nonpayment of a renewal fee if the licensee pays the annual renewal fee plus a penalty prescribed by the board on or before the date fixed for revocation.

(7) A license revoked for nonpayment of the annual renewal fee may be reissued only on original application and payment of an additional fee prescribed by the board.

(8) Licenses must be conspicuously displayed by podiatrists at their offices or other places of practice."

Section 35. Section 37-6-311, MCA, is amended to read:

"**37-6-311. Refusal or revocation of license -- investigation ~~-- reinstatement~~.** (1) After notice and opportunity for a hearing, the board may deny, revoke, or refuse to renew a license to practice podiatry if the consensus of the board is that an applicant is not of good moral character or has engaged in unprofessional conduct. ~~The department shall notify the applicant of the board's intent to deny, revoke, or refuse to renew a license by mailing a letter to the applicant's last-known address stating the board's intent and setting a time and place for a hearing. If the applicant fails without cause to appear at the hearing or if the board determines that the applicant is not entitled to a license, the board shall deny, revoke, or refuse to renew the applicant's license.~~

(2) The ~~board~~ department may investigate whenever it is brought to its attention that a licensed podiatrist:

(a) is mentally or physically unable to engage safely in the practice of podiatry;

(b) has procured ~~his~~ the license by fraud, misrepresentation, or through error;

(c) has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent;

(d) has a condition that impairs ~~his~~ the licensee's intellect or judgment to the extent that it incapacitates ~~him~~ the licensee in the safe performance of ~~his~~ professional duties;

(e) has been found guilty of unprofessional conduct;

(f) has practiced podiatry while ~~his~~ the license was suspended or revoked;

(g) has had ~~his~~ the license suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(h) while under probation has violated its terms.

(3) The investigation ~~shall~~ must be for the purpose of determining the probability that the alleged conditions exist or that the alleged offenses were committed. ~~The~~ Upon order of the board, the investigation may include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interest of the public that this evaluation be secured. The board may examine the hospital records and reports of a licensee as part of the examination, and copies shall be released to the board on written request. ~~If the board has reasonable cause to believe that the alleged conditions exist or that the alleged offenses were committed, the department shall mail to the person at his last known address a specification of the charges against him, together with a written notice of the time and place of the hearing on such charges, advising him that he may be present in person and by counsel if he so desires to offer evidence and be heard in his defense. The time fixed for the hearing may not be less than 30 days from the date of mailing the notice.~~

~~(4) A person, including a member of the board, may file a written complaint with the department against a person having a license to practice podiatry in this state charging him with the commission of any of the offenses set forth in 37-6-310 or with any of the offenses or conditions set forth in subsection (1) or (2) of this section. The complaint shall set forth a specification of the charges. When the complaint is filed, the department shall mail a copy to the person complained against, at his last known address, together with a written citation of the time and place of the hearing on the complaint.~~

~~(5) At the hearing the board shall adopt a resolution finding the person complained against guilty or not guilty of the matters charged. If the board finds that the offenses or conditions referred to in 37-6-310 or subsection (1) or (2) of this section do not exist with respect to the person complained against or if he is found not guilty, the board shall dismiss the charges or complaint. If the board finds that the offenses or conditions referred to in 37-6-310 or in subsection (1) or (2) of this section do exist or the person is found guilty, the board shall:~~

~~(a) revoke his license;~~

~~(b) suspend his right to practice for a period not exceeding 1 year;~~

~~(c) suspend its judgment of revocation on the terms and conditions to be determined by the board;~~

~~(d) place him on probation; or~~

~~(e) take any other action in relation to disciplining him as the board in its discretion considers proper.~~

~~(6) In a case of revocation, suspension, or probation, the department shall enter in its records the facts of the action and of subsequent measures taken by the board with respect to that action.~~

~~(7) On the expiration of the term of suspension, the licensee shall be reinstated by the board if he furnishes the board with evidence that he is then of good moral character and conduct or restored to good health and that he has not practiced podiatry in this state during the term of suspension. If the evidence fails to establish to the satisfaction of the board that the holder is then of good moral character and conduct or restored to good health or if the evidence shows he has practiced podiatry in this state during the term of suspension, the board shall revoke the license at a hearing held in accordance with the notice and procedure provided in subsection (1). The revocation is final.~~

~~(8)~~(4) If a person holding a license to practice podiatry under this chapter is by a final order or adjudication of a court of competent jurisdiction determined to be mentally incompetent, seriously mentally ill, or addicted to the use of narcotics, ~~his~~ the license may be suspended by the board. The suspension continues until the licensee is found by the court to be restored to reason or cured or until ~~he~~ the licensee is discharged as restored to reason or cured and ~~his~~ the licensee's professional competence has been proven to the satisfaction of the board."

Section 36. Section 37-7-101, MCA, is amended to read:

"37-7-101. Definitions. Unless the context requires otherwise, in parts 1 through 3 of this chapter, the following definitions apply:

(1) "Board" means the board of pharmacy provided for in 2-15-1843.

(2) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(3) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.

~~(4) "Continuing education" means professional pharmaceutical postgraduate education in the following areas:~~

~~(a) the socioeconomic and legal aspects of health care;~~

~~(b) the properties and actions of drugs and dosage forms; and~~

~~(c) the etiology, characteristics, and therapeutics of the disease state.~~

~~(5)~~(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

~~(6) (a)~~(5) (a) "Drug" means:

(i) articles recognized in the official United States Pharmacopoeia/National Formulary or a supplement ~~to them~~;

(ii) articles intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in ~~man~~ people or other animals;

(iii) articles, ~~(other than food)~~, intended to affect the structure or function of the body of ~~man~~ an individual or other ~~animals~~ animal; and

(iv) articles intended for use as a component of an article specified in subsection (i), (ii), or (iii).

(b) "Drug" does not include devices or their components, parts, or accessories.

~~(7)~~(6) "Intern" means a natural person licensed by the department to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons under the supervision of a registered and licensed pharmacist.

~~(8)~~(7) "Medicine" means a remedial agent which has the property of curing, preventing, treating, or mitigating diseases or which is used for this purpose.

~~(9)~~(8) "Person" includes an individual, partnership, corporation, or association.

~~(10)~~(9) "Pharmacist" means a natural person licensed by the department to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons and who may affix to ~~his~~ the person's name the term "R.Ph.".

~~(11)~~(10) "Pharmacy" means an established place registered by the department of commerce in which prescriptions, drugs requiring a prescription, medicines, chemicals, and poisons are compounded, dispensed, vended, or sold.

~~(12)~~(11) "Pharmacy technician or auxiliary" means an individual who assists a pharmacist in the practice of pharmacy pursuant to an approved utilization plan.

~~(13)~~(12) "Poison" means a substance which, when introduced into the system, either directly or by absorption, produces violent, morbid, or fatal changes or which destroys living tissue with which it

comes in contact.

~~(14)~~(13) "Prescription" means an order given individually for the person for whom prescribed, directly from the prescriber to the furnisher or indirectly to the furnisher, by means of an order signed by the prescriber and bearing the name and address of the prescriber, ~~his~~ the prescriber's license classification, the name of the patient, the name and the quantity of the drug or drugs prescribed, the directions for use and the date of its issue. These stipulations apply to both written and telephoned prescriptions.

~~(15)~~(14) "Utilization plan" means a plan under which a pharmacist may use the services of a pharmacy technician or auxiliary in the practice of pharmacy to perform tasks that:

(a) do not require the exercise of the pharmacist's independent professional judgment; and

(b) are verified by the pharmacist.

~~(16)~~(15) "Wholesale" means a sale for the purpose of resale."

Section 37. Section 37-7-302, MCA, is amended to read:

"**37-7-302. Examination -- qualifications -- fees -- reciprocity.** (1) The department shall give reasonable notice of examinations by mail to known applicants. The department shall record the names of persons examined, together with the grounds on which the right of each to examination was claimed, and also the names of persons registered by examination or otherwise.

(2) The fee for an examination ~~shall~~ must be set by the board at a figure commensurate with costs~~, which~~. The fee may in the discretion of the board be returned to applicants not taking the examination.

(3) To be entitled to examination as a pharmacist, the applicant ~~shall~~ must be of good moral character and ~~shall~~ must have graduated and received the first professional undergraduate degree from the school of pharmacy of the university of Montana or from an accredited pharmacy degree program that has been approved by the board. However, ~~no~~ an applicant may not receive a registered pharmacist's license until ~~he~~ the applicant has complied with the internship requirements established by the board.

~~(4) The board may in its discretion authorize the department to grant registration without examination to a pharmacist licensed by a board of pharmacy or a similar board of another state which accords similar recognition to licensees of this state if the requirements for registration in the other state are, in the opinion of the board, equivalent to the requirements of this chapter. The fee for registration by reciprocity shall be prescribed by the board.~~

~~(5)~~(4) ~~Every~~ Each person licensed and registered under this chapter ~~shall~~ must receive from the

department an appropriate certificate attesting the fact, which ~~shall~~ must be conspicuously displayed at all times in ~~his~~ the place of business."

Section 38. Section 37-7-303, MCA, is amended to read:

"**37-7-303. Annual renewal fee.** ~~(1)~~ A person licensed and registered by the department shall annually pay to the department on or before ~~June 30~~ the date set by department rule a renewal of registration fee prescribed by the board. A default in the payment of a renewal fee after the date it is due increases the renewal fee as prescribed by the board. It is unlawful for a person who refuses or fails to pay the renewal fee to practice pharmacy in this state. A certificate and renewal expires at the time prescribed, not later than 1 year from its date. A defaulter in a renewal fee may be reinstated within 1 year of the default without examination on payment of the arrears and compliance with ~~the continuing education provisions of this chapter~~ other requirements prescribe by law.

~~(2) The board may charge an additional fee for such license renewal to be used in administering the continuing education provisions of this chapter.~~"

Section 39. Section 37-7-321, MCA, is amended to read:

"**37-7-321. Certified pharmacy license ~~— suspension or revocation~~.** (1) The board shall provide for the original certification and annual renewal by the department of every pharmacy doing business in this state. On presentation of evidence satisfactory to the board and on application on a form prescribed by the board and on the payment of an original certification fee prescribed by the board, the department shall issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to pharmacies operated by registered pharmacists qualified under this chapter. The annual renewal fee for a pharmacy ~~shall~~ must be set by the board. Any default in the payment of ~~such~~ the renewal fee after the date the same is due ~~shall increase~~ increases the renewal fee as prescribed by the board. The license must be displayed in a conspicuous place in the pharmacy for which it is issued and expires on ~~June 30 following the date of issue~~ the date set by department rule. It is unlawful for a person to conduct a pharmacy, use the word "pharmacy" to identify ~~his~~ the business, or use the word "pharmacy" in advertising unless a license has been issued and is in effect.

(2) The board may ~~suspend, revoke,~~ impose discipline or deny or refuse to renew a pharmacy license:

~~(a) obtained by false representation or fraud;~~

~~(b) when the pharmacy for which the license is issued is kept open for the transaction of business without a pharmacist in charge;~~

~~(c) when the person to whom the license is granted has been convicted of:~~

~~(i) a violation of parts 1 through 3 of this chapter; or~~

~~(ii) a violation of the Federal Food, Drug, and Cosmetic Act (Title 21, chapter 9, U.S.C.); chapter 2 or 7 of Title 37, chapter 9 or 10 of Title 45, or chapter 31 or 32 of Title 50, MCA; or rules adopted under such act or chapters;~~

~~(d) when the person to whom the license is granted is a natural person whose pharmacist license has been revoked; or~~

~~(e) when the pharmacy is conducted in violation of parts 1 through 3 of this chapter.~~

~~(3) Before a license can be revoked, the holder is entitled to a hearing by the board~~ for reasons specified in and subject to conditions specified in Title 37, chapter 1."

Section 40. Section 37-7-606, MCA, is amended to read:

"**37-7-606. Issuance of licenses.** The license for wholesale drug distributors is effective ~~from April 1 to March 31 of the following year~~ during the 12-month period specified by department rule. An application for renewal of a license must be mailed to each licensee ~~on or before March 1~~ at least 30 days prior to the renewal date, and if the renewal application and the fee are not mailed by ~~March 31~~ the renewal date, the license is void upon its expiration date."

Section 41. Section 37-8-409, MCA, is amended to read:

"**37-8-409. Midwifery -- when professional nurse may practice.** ~~(1)~~ A person licensed under ~~37-8-406 or 37-8-407~~ this chapter who holds a certificate in nurse-midwifery from the American college of nurse-midwives may practice midwifery upon approval by the board of an amendment to ~~her~~ the license granting a certificate of nurse-midwifery. The board shall grant a certificate of nurse-midwifery to a person who submits written verification of certification by the American college of nurse-midwives and who meets ~~such~~ other qualification requirements as the board may prescribe.

~~(2) The board may give temporary approval to practice nurse-midwifery for up to 4 months to a person who has taken the American college of nurse-midwives national certification examination, pending~~

~~receipt of official notification of the results of the examination.~~"

Section 42. Section 37-8-431, MCA, is amended to read:

"**37-8-431. Renewal of license.** (1) The license of a person licensed under this chapter must be annually renewed on the date set by department rule. ~~Before December 1 of each year~~ At least 30 days prior to the renewal date, the department shall mail an application form for renewal of license to ~~every~~ each person to whom a license was issued or renewed during the year. The applicant shall carefully complete and subscribe the application form and return it to the department with a renewal fee prescribed by the board on or before ~~January 1~~ the renewal date.

(2) The board may increase or decrease the annual license fee so as to maintain in the state special revenue fund at all times an adequate amount to be used for the purpose of administering, policing, and enforcing the provisions of Title 37, chapter 1, and this chapter. On receipt of the application and fee, the department shall verify the accuracy of the application against its record and from other sources the board considers reliable and issue to the applicant a certificate of renewal ~~for the current year beginning January 1 and expiring December 31 following~~. The certificate of renewal renders the holder a legal practitioner of nursing for the period stated in the certificate of renewal.

(3) A licensee who allows ~~his~~ the license to lapse by failing to renew the license may be reinstated by the board on satisfactory explanation for the failure to renew license and on payment of the current renewal fee prescribed by the board.

(4) A person practicing nursing during the time following the date ~~his~~ the license has expired is an illegal practitioner and is subject to the penalties provided for violations of this chapter.

(5) The board may establish a reasonable late fee for licensees who fail to renew their license by ~~January 1 as required in subsection (1)~~ the renewal date."

Section 43. Section 37-9-101, MCA, is amended to read:

"**37-9-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of nursing home administrators provided for in 2-15-1845.

(2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

~~(3) "Inactive nursing home administrator" means an individual who has been licensed in this state~~

~~as a nursing home administrator and whose license has not been revoked or suspended but who is not actively engaged in nursing home administration.~~

~~(4)~~ (3) "Long-term care facility" means any skilled nursing facility, nursing home, or intermediate care facility as defined for licensing purposes under state law or the rules for long-term care facilities of the department of health and environmental sciences, whether proprietary or nonprofit, including facilities owned or administered by the state or a political subdivision.

~~(5)~~(4) "Nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of a long-term care facility, whether the individual has an ownership interest in the facility and whether ~~his~~ the individual's functions and duties are shared with one or more other individuals."

Section 44. Section 37-9-203, MCA, is amended to read:

"**37-9-203. Duties of board.** The board shall:

(1) develop, impose, and enforce standards ~~which~~ that must be met by individuals in order to register and receive a license as a nursing home administrator, designed to ensure that nursing home administrators are individuals of good character and otherwise suitable and, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(2) develop and apply appropriate techniques, including examination and investigation, for determining whether individuals meet the standards;

(3) authorize the department to register and issue licenses to individuals, after application of the techniques, determined to meet the standards;

(4) establish and implement procedures designed to ensure that individuals registered and licensed as nursing home administrators will, during the period that they serve, comply with the requirements of the standards;

(5) conduct a continuing study and investigation of nursing home administrators within the state with a view to the improvement of the standards imposed for the licensing of administrators and of procedures and methods for the enforcement of the standards with respect to nursing home administrators;

~~(6) conduct or cause to be conducted one or more courses of instruction and training sufficient to meet the requirements of this chapter and make provisions for the conduct of these courses and their accessibility to residents of this state, unless it finds that there are a sufficient number of courses~~

~~conducted by others within this state to meet the needs of the state; instead, the board may approve courses conducted within and outside of this state sufficient to meet the education and training requirements of this chapter;~~

~~(7) prescribe or approve continuing education courses~~."

Section 45. Section 37-9-302, MCA, is amended to read:

"**37-9-302. Department to license pursuant to board rules -- nontransferability -- temporary permit.** (1) The department shall register and license nursing home administrators under the rules adopted by the board.

(2) A nursing home administrator's registration and license is not transferable and is valid until surrendered for cancellation, suspended, or revoked for violation of this chapter or any other laws or rules relating to the proper administration and management of a long-term care facility.

~~(3) If the board determines that preliminary qualifications set forth in 37-9-301 will have been met before the next examination, it may authorize the department to issue a temporary permit for a period of 180 days or until the scores of the next examination are announced. No temporary permit may be issued to an applicant after the date of the first examination for which he is eligible.~~"

Section 46. Section 37-9-304, MCA, is amended to read:

"**37-9-304. Fees.** (1) Each person who applies for licensure, whether by waiver, examination, or reciprocation, shall pay a fee prescribed by the board at the time of application.

(2) Each person licensed as a nursing home administrator shall pay a license fee in an amount fixed by the board. A license ~~shall expire~~ expires each year on a date set by department rule ~~of the department~~ and ~~shall~~ must be renewable annually upon timely payment of the license fee.

~~(3) Each person registered as an inactive nursing home administrator shall be required to pay a registration fee in the amount fixed by the board. An inactive registration shall expire each year on a date established by rule of the department and shall be renewable annually upon timely payment of the inactive registration fee.~~

~~(4)~~ (3) The fee for issuing a duplicate license ~~shall~~ must be fixed by the board."

Section 47. Section 37-9-305, MCA, is amended to read:

"**37-9-305. Renewal of registration and license.** ~~Every~~ Each holder of a nursing home administrator's registration and license shall renew it annually by payment of the required fee for the next subsequent year prior to the expiration date of ~~his~~ the currently valid registration and license. Renewals of registrations or licenses ~~shall~~ must be granted as a matter of course~~, providing the holder has completed a continuing education course prescribed or approved by the board;~~. ~~however~~ However, if the board finds, after due notice and hearing, that the applicant has acted or failed to act in ~~such~~ a manner or under circumstances ~~as~~ that would constitute grounds for ~~suspension or revocation of a registration and license~~ discipline, it ~~shall~~ may not issue the renewal."

Section 48. Section 37-10-304, MCA, is amended to read:

"**37-10-304. Course in use of diagnostic and therapeutic drugs required.** (1) (a) In addition to the requirements of 37-10-302 ~~or 37-10-303, whichever is applicable~~, each person desiring to commence the practice of optometry shall satisfactorily complete a course prescribed by the board of medical examiners with consultation and approval by the board of optometrists with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions.

(b) A person presently licensed to practice optometry who wishes to employ diagnostic agents must satisfactorily complete a course referred to in subsection (1)(a) and must pass an examination as provided in subsection (1)(d).

(c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the national commission on accrediting or the United States commissioner of education. The course must also be approved by the board.

(d) The board shall provide for an examination in competency in the use of diagnostic drugs and shall issue a certificate to those applicants who pass ~~such~~ the examination.

(2) (a) ~~In addition to the requirements of 37-10-302 or 37-10-303, whichever is applicable, each~~ Each person desiring to commence the practice of optometry shall:

(i) pass an examination, of the international association of boards of examiners in optometry, on the diagnosis, treatment, and management of ocular disease; or

(ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular

diseases. The course and examination must be conducted by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the national commission on accrediting or the United States commissioner of education. The course and examination must also be approved by the board.

(b) A person presently licensed to practice optometry who wishes to employ therapeutic pharmaceutical agents must meet the requirements of subsection (2)(a).

(c) The board shall:

(i) provide for an examination in competency in the diagnosis, treatment, and management of therapeutic pharmaceutical agents; and

(ii) issue a certificate to an applicant who passes ~~such~~ the examination."

Section 49. Section 37-11-303, MCA, is amended to read:

"**37-11-303. Qualifications of applicants for license.** To be eligible for a license as a physical therapist, an applicant must:

(1) be of good moral character and at least 18 years of age;

(2) have graduated from an accredited school of physical therapy approved by the board; and

(3) ~~either:~~

~~(a)~~ pass to the satisfaction of the board a written examination prescribed by the board and, if considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical therapist~~; or~~

~~(b) be entitled to a license without examination under 37-11-307~~."

Section 50. Section 37-11-304, MCA, is amended to read:

"**37-11-304. Application for examination -- fee.** (1) ~~Unless entitled to a license under 37-11-307,~~ ~~a~~ A person who desires to be licensed as a physical therapist shall apply to the department in writing, on a form furnished by the department~~. He~~ and shall:

(a) embody in that application evidence under oath, satisfactory to the board, of ~~his possessing~~ having the qualifications preliminary to the examination required by 37-11-303; and

(b) pay to the department at the time of filing ~~his~~ the application a fee as established by the board by rule. The fee must be commensurate with the cost of the examination and its administration and must

be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

(2) Anyone failing to pass the required examination on ~~his~~ the first attempt is entitled to sit for a second examination and, if ~~he fails~~ the second examination is failed, to sit for a third examination."

Section 51. Section 37-11-308, MCA, is amended to read:

"**37-11-308. Annual renewal of license -- fee.** A licensed physical therapist shall~~, during January~~ on or before the date set by department rule, apply to the department for a renewal of ~~his~~ the license and pay a fee ~~which shall be~~ set by board rule. A license that is not renewed before ~~April every year~~ the renewal date automatically lapses. The board may, in its discretion, revive and renew a lapsed license on the payment of all past unpaid renewal fees or a late renewal fee."

Section 52. Section 37-12-201, MCA, is amended to read:

"**37-12-201. Organization of board -- meetings -- powers and duties.** (1) The board shall elect annually a president, vice president, and secretary-treasurer from its membership.

(2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at times and places as a majority of the board designates. A majority of the board constitutes a quorum.

(3) The board shall:

(a) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming within the scope of the board;

(b) adopt a seal that must be affixed to licenses issued;

(c) make a schedule of minimum educational requirements, which are without prejudice, partiality, or discrimination, as to the different schools of chiropractic;

(d) adopt rules necessary for the implementation, administration, continuation, and enforcement of this chapter. The rules must address but are not limited to license applications, form and display of license, license examination format, criteria for and grading of examinations, disciplinary standards for licensees, and the registration of interns and preceptors.

~~(e) investigate complaints;~~

~~(f)~~ (e) make determinations of the qualifications of applicants under this chapter;

~~(g)~~ (f) administer the examination for licensure under this chapter;

~~(h)~~ (g) establish and collect fees, fines, and charges as provided in this chapter;

~~(i)~~ (h) issue, suspend, or revoke licenses under the conditions prescribed in this chapter; and

~~(j)~~ (i) certify that a chiropractor who meets the standards that the board by rule adopts is a qualified evaluator for purposes of 39-71-711.

(4) The department shall keep a record of the proceedings of the board, which ~~shall~~ must at all times be open to public inspection."

Section 53. Section 37-12-307, MCA, is amended to read:

"**37-12-307. Annual renewal of license -- fees ~~--continuing education--inactive status~~.** ~~(1)~~ A license expires on ~~September 1 of each year~~ the date set by department rule and ~~shall~~ must be renewed by the department on payment of a renewal fee, as set by the board, and the presentation of evidence satisfactory to the board that the licensee~~, in the year preceding the application for renewal, attended and successfully completed a postgraduate educational program for chiropractors approved by the board~~ qualifies for renewal. All applicants for renewal who have not paid the renewal fee ~~prior to October 1 of each year~~ on or before the renewal date shall pay an additional late fee prescribed by the board.

~~(2) The board shall by rule set standards for inactive status. It shall charge an annual fee for a license placed on inactive status.~~

~~(3) An inactive license may be reinstated to active status upon payment of a fee and completion of the continuing education requirements set by the board.~~"

Section 54. Section 37-12-322, MCA, is amended to read:

"**37-12-322. Investigation of complaints ~~--discipline of licensees--revocation or suspension of license~~.** (1) The ~~board~~ department may make an investigation whenever it is brought to its attention that there is reason to suspect that a person licensed to practice chiropractic:

(a) has a mental or physical condition such that ~~he~~ the person is unable to safely engage in the practice of chiropractic;

(b) has been declared incompetent or seriously mentally ill by a court of competent jurisdiction and thereafter has not been declared competent or released from supervision;

(c) has procured ~~his~~ the license through mistake;

(d) has been guilty of unprofessional conduct;

(e) has practiced chiropractic while ~~his~~ the license was suspended or revoked;

(f) has while under probation violated its terms.

(2) The investigation ~~shall~~ must be for the purpose of determining the probability of the existence of these conditions or the commission of these offenses and may, upon order of the board, include requiring the person to submit to a physical or mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine the hospital records and reports of the licensee as part of the examination, and copies of these ~~shall~~ must be released to the board on written request. ~~If the board has reasonable cause to believe that this probability exists, the department shall mail to the person at his last address of record with the department, a specification of the charges against him, together with a written notice of the time and place of the hearing on such charges, advising him that he may be present in person and with counsel if he so desires to offer evidence and be heard in his defense. The time fixed for hearing may not be less than 30 days from the date of mailing the notice.~~

~~(3) Any person, including a member of the board, may file a sworn complaint with the department against a licensed chiropractor charging him with any of the offenses or conditions set forth in 37-12-321 or subsection (1) of this section, which complaint shall set forth a specification of the charges. When the complaint has been filed, the board may make an investigation as provided by this section or may proceed to hearing. The department shall mail a copy of the complaint to the person charged, together with notice of hearing as provided in subsection (2) of this section.~~

~~(4) After the hearing, the board shall adopt a resolution finding that the offenses charged have or have not been committed or that the conditions charged do or do not exist. If the finding is in the negative, the board shall dismiss the charges. If the finding is in the affirmative, the board shall:~~

~~(a) revoke the license;~~

~~(b) suspend the licensee's right to practice for a period not to exceed 1 year;~~

~~(c) suspend its judgment of revocation on terms and conditions determined by the board;~~

~~(d) place the licensee on probation;~~

~~(e) fine the licensee in an amount not to exceed $500 for each incident; or~~

~~(f) take any other disciplinary action which the board in its discretion considers proper.~~

~~(5) In cases of revocation, suspension, or probation, the department shall record the facts of the case and all actions of the board in relation thereto.~~

~~(6) On the expiration of a term of suspension, the licensee shall be reinstated by the board if he~~

~~furnishes evidence, satisfactory to the board, that he is then of good moral character and conduct or restored to good health and that he has not practiced chiropractic during the term of suspension. If the evidence fails to establish such facts to the satisfaction of the board, the board shall proceed to hearing on revocation with notice as provided in subsection (2) of this section.~~

~~(7) Following a final determination resulting in any disciplinary action taken by the board under subsection (4), the board may recover from the disciplined party all reasonable costs of any proceeding, not to exceed $1,000, incurred for the purpose of the disciplinary action. Fines and costs recovered must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).~~"

Section 55. Section 37-13-306, MCA, is amended to read:

"**37-13-306. Annual renewal -- fee -- military exemption.** (1) The license to practice acupuncture must be renewed annually, on a date set by the ~~board~~ department, without examination and upon request of the licensee. The request for renewal must be on forms prescribed by the board and accompanied by a renewal fee prescribed by the board. The request and fee must be in the hands of the secretary of the board not later than the expiration date of the license.

(2) Immediately following the renewal date, the secretary shall notify all licensees from whom requests for renewal, accompanied by the renewal fee, have not been received that their licenses have expired and that they will be cancelled and revoked upon the records of the board unless a request for renewal and reinstatement, accompanied by the renewal fee and an additional fee prescribed by the board, is in the hands of the secretary within 30 days of the renewal date.

(3) If the licensee fails to renew within 30 days following the renewal date, the secretary of the board shall cancel and revoke upon its records all licenses that have not been renewed or reinstated as provided by this chapter and shall notify the licensees whose licenses are revoked of the action.

(4) A licensee who allows ~~his~~ the license to lapse by failing to renew or reinstate the license as provided in this section may subsequently reinstate the license upon good cause shown to the satisfaction of the board and upon payment of all annual renewal fees then accrued plus an additional fee prescribed by the board for each year following the cancelling of the license.

(5) A person actively engaged in the military service of the United States and licensed to practice acupuncture as provided in this part is not required to pay the annual renewal fee or make application for renewal until the renewal date of the calendar year in which ~~he~~ the person returns from military service to

civilian or inactive status."

Section 56. Section 37-15-102, MCA, is amended to read:

"**37-15-102. Definitions.** As used in this chapter, the following definitions apply:

(1) "ASHA" means the American speech-language and hearing association.

(2) "Association" means the Montana speech-language and hearing association.

(3) "Audiologist" means a person who practices audiology and who meets the qualifications set forth in this chapter. A person represents to the public that the person is an audiologist by incorporating in any title or description of services or functions that the person directly or indirectly performs the words "audiologist","audiology","audiometrist","audiometry","audiological","audiometrics","hearingclinician", "hearing clinic", "hearing therapist", "hearing therapy", "hearing center", "hearing aid audiologist", or any similar title or description of services.

(4) "Audiology aide" means any person meeting the minimum requirements established by the board of speech-language pathologists and audiologists who works directly under the supervision of a licensed audiologist.

(5) "Board" means the board of speech-language pathologists and audiologists provided for in 2-15-1849.

(6) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(7) "Practice of audiology" means rendering or offering to render a service in audiology to individuals or groups of individuals who have or are suspected of having hearing disorders. These services include:

(a) prevention, identification, measurement, testing, evaluation, prediction, consultation, habilitation, rehabilitation, instruction, and research;

(b) participating in hearing conservation and hearing aid and assistive listening device evaluation, prescription, preparation, dispensing, and orientation;

(c) fabricating ear molds;

(d) providing auditory training and speech reading;

(e) conducting tests of vestibular function;

(f) evaluating tinnitus;

(g) planning, directing, conducting, or supervising programs that render or offer to render a service

in audiology; and

(h) speech or language screening, limited to a pass/fail determination.

(8) "Practice of speech-language pathology" means rendering or offering to render a service in speech-language pathology to individuals or groups of individuals who have or are suspected of having communication disorders. These services include:

(a) prevention, identification, measurement, testing, evaluation, prediction, consultation, habilitation, and rehabilitation;

(b) determining the need for augmentative communication systems and providing training in the use of these systems;

(c) planning, directing, conducting, or supervising programs that render or offer to render a service in speech-language pathology;

(d) nondiagnostic pure-tone air conduction, tympanometry, and acoustic reflex screening, limited to a pass/fail determination;

(e) aural rehabilitation, which includes services and procedures for facilitating adequate receptive and expressive communication in individuals with hearing impairment;

(f) oral motor rehabilitation, which includes services and procedures for evaluating and facilitating face, lip, and tongue mobility and control;

(g) cognitive retraining, which includes services and procedures for evaluating and facilitating memory, attention, reasoning, processing, judgment, and other related areas in individuals with language impairment resulting from head injury, stroke, or other insult; and

(h) dysphagia therapy, which includes services and procedures for evaluating and facilitating swallowing and feeding in those individuals with swallowing disorders.

(9) "Speech-language pathologist" means a person who practices speech-language pathology and who meets the qualifications set forth in this chapter. A person represents to the public that the person is a speech-language pathologist by incorporating in any title or description of services or functions that the person directly or indirectly performs the words "speech pathologist", "speech pathology", "speech correctionist", "speech corrections", "speech therapist", "speech therapy", "speech clinician", "speech clinic", "language pathologist", "language pathology", "voice therapist", "voice therapy", "voice pathologist", "voice pathology", "logopedist", "logopedics", "communicologist", "communicology", "aphasiologist", "aphasiology", "phoniatrist", "language therapist", "language clinician", or any similar title

or description of services or functions.

(10) "Speech-language pathology aide" means a person meeting the minimum requirements established by the board who works directly under the supervision of a licensed speech-language pathologist.

~~(11) "Unethical conduct" means:~~

~~(a) the obtaining of a fee by fraud or misrepresentation;~~

~~(b) employing, directly or indirectly, any suspended or unlicensed person to perform any work covered by this chapter unless that person assumes the legal status of a supervised aide; or~~

~~(c) using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceiving, improbable, or untruthful.~~"

Section 57. Section 37-15-202, MCA, is amended to read:

"**37-15-202. Powers and duties of board and department.** (1) The board shall:

(a) administer, coordinate, and enforce the provisions of this chapter;

(b) evaluate the qualifications of each applicant for a license as issued under this chapter and supervise the examination of ~~such~~ applicants;

~~(c) investigate persons engaging in practices which allegedly violate the provisions of this chapter;~~

~~(d)~~ (c) conduct hearings and keep records and minutes as the board considers necessary to an orderly dispatch of business;

~~(e)~~ (d) adopt rules, including but not limited to those governing ethical standards of practice under this chapter;

~~(f)~~ (e) make recommendations to the governor and other state officials regarding new and revised programs and legislation related to speech-language pathology or audiology which could be beneficial to the citizens of the state of Montana;

~~(g)~~ (f) cause the prosecution and enjoinder of all persons violating this chapter, by the complaints of its secretary filed with the county attorney in the county where the violation took place, and incur necessary expenses therefor;

~~(h)~~ (g) adopt a seal by which the board shall authenticate its proceedings.

(2) Copies of the proceedings, records, and acts of the board, signed by the ~~chairman~~ presiding

officer or secretary of the board and stamped with the seal, ~~shall be~~ are prima facie evidence of the validity of ~~such~~ the documents.

(3) The board may make rules which are reasonable or necessary for the proper performance of its duties and for the regulation of proceedings before it.

(4) The department may employ persons it considers necessary to carry out the provisions of this chapter.

(5) The department shall prepare a report to the governor as required by law."

Section 58. Section 37-15-308, MCA, is amended to read:

"**37-15-308. Renewal.** (1) Each licensed speech-language pathologist or audiologist shall pay to the board the fee for the renewal of ~~his~~ the license according to rules adopted by the department.

(2) The department shall notify each person licensed under this chapter relative to the date of expiration of ~~his~~ the license and the amount of the renewal fee. This notice must be mailed to each licensed speech-language pathologist or audiologist at least 1 month before the expiration of the license.

(3) Renewal may be made at any time during the 60 days prior to the expiration date by application therefor. ~~A renewal application must be accompanied with documentation satisfactory to the board that the applicant has fulfilled his continuing educational requirements as provided in 37-15-309.~~

(4) Failure on the part of any licensed person to pay the renewal fee by the expiration date does not deprive ~~him~~ the person of the right to renew ~~his~~ the license, but the fee ~~shall~~ must be increased 10% for each month that the payment of the renewal fee is delayed after the expiration date. The maximum fee for delayed renewal ~~shall~~ may not exceed twice the normal renewal fee.

(5) Application for renewal following a lapse of 1 year or more ~~shall be~~ is subject to review by the board, and the applicant may be requested to complete an examination successfully if the board so determines.

(6) A suspended license is subject to expiration and may be renewed as provided in this section, but ~~such~~ the renewal does not entitle the licensee, while the license remains suspended, to engage in the licensed activity or in any other activity or conduct which violates the order or judgment by which the license was suspended.

(7) A license revoked on disciplinary grounds is subject to expiration, and it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement

fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated plus the delinquency fee, if any, accrued at the time of its revocation.

(8) A person who fails to renew ~~his~~ a license within 2 years after its expiration may not renew it, and it may not be restored, reissued, or reinstated ~~thereafter;. but such a~~ However, the person may reapply for and obtain a new license if ~~he~~ the person meets the requirements of this chapter."

Section 59. Section 37-16-202, MCA, is amended to read:

"**37-16-202. Powers and duties.** The powers and duties of the board are to:

(1) license persons who apply and are qualified to practice the fitting of hearing aids;

~~(2) establish a procedure to act as a grievance board to receive, investigate, and mediate complaints from any source concerning the activities of persons licensed under this chapter or their agents, whether licensed or not;~~

~~(3)~~ (2) suspend or revoke licenses under this chapter;

~~(4)~~ (3) designate the time and place for examining applicants for license and supervise and administer the examination;

~~(5)~~ (4) adopt rules necessary to carry out this chapter;

~~(6)~~ (5) require the periodic inspection and calibration of audiometric testing equipment and carry out periodic inspections of facilities of persons who practice the fitting or selling of hearing aids;

~~(7)~~ (6) prepare examinations required by the chapter;

~~(8)~~ (7) initiate legal action to enjoin from operation a person or corporation engaged in the sale, dispensing, or fitting of hearing aids in this state who is not licensed under this chapter;

~~(9)~~ (8) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-403, 37-16-405, 37-16-407, and 37-16-408~~, 37-16-411, and 37-16-414~~. Rules adopted by the board may include but are not limited to rules defining the term "related devices" and other rules necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-403, 37-16-405, 37-16-407, and 37-16-408~~, 37-16-411, and 37-16-414~~."

Section 60. Section 37-16-301, MCA, is amended to read:

"**37-16-301. Permanent place of business in state necessary -- records -- notice -- designation of licensee in charge.** (1) A person who is actively engaged in dispensing hearing aids and related devices as

a business must have a permanent place of business in this state that will be opened to serve the public, having the necessary testing, fitting, and hearing aid accessories needed by the hard-of-hearing public in the wearing of hearing aids and related devices. All licensed hearing aid dispensers shall identify their permanent place of business in all advertising public notices and in all consumer correspondence, both written and verbal. More than one hearing aid dispenser licensee may work from a permanent place of business.

(2) The department shall keep a record of the places of practice of persons who hold regular licenses or trainee licenses. A notice required to be given by the board or department to a person who holds a regular or trainee license may be given by mailing it to ~~him~~ the person at the address last given ~~by him~~ to the department.

(3) All licensed hearing aid dispensers shall notify the board of any change of address within 30 days of the change. A trainee shall notify the board of any change of address within 10 days of the change.

(4) (a) When licensed hearing aid dispensers and trainees work at the same permanent place of business, the licensed hearing aid dispenser shall designate one licensed dispenser as the person in charge. There must be one licensed dispenser in charge at a permanent place of business.

(b) The licensed hearing aid dispenser in charge of a permanent place of business:

(i) is responsible and accountable under the disciplinary authority of the board for the conduct of trainees using that permanent place of business; and

(ii) has custody and control of the business records of that permanent place of business and is responsible for producing the records during an investigation conducted by the ~~board~~ department."

Section 61. Section 37-16-407, MCA, is amended to read:

"37-16-407. Renewal of license -- fee ~~-- inactive status~~. ~~(1)~~ A person who practices the fitting of hearing aids and related devices shall annually pay to the department a fee as set by the board for a renewal of ~~his~~ the license. The fee must be fixed by the board to be commensurate with board costs in administering licensure and related board functions. The fee must be increased 10% for each month or major portion ~~thereof~~ of a month that the payment of the renewal fee is delayed after the expiration date. The maximum fee for a delayed renewal may not exceed twice the normal renewal fee as set by the board. A person applying for renewal whose license was suspended for failure to renew is required to submit to the examinations described in 37-16-403 as a condition of renewal for a 3-year period after suspension.

~~(2) Each applicant for license renewal shall submit evidence showing completion of 4 hours of continuing education completed during the preceding 12 months. The requirements of the continuing education programs are to be determined by the board by rule.~~

~~(3) (a) The board may set standards and fees for issuing licenses that designate inactive status.~~

~~(b) An inactive licensee may be reinstated to active practice if he:~~

~~(i) applies for reinstatement;~~

~~(ii) pays a fee set by the board; and~~

~~(iii) produces proof satisfactory to the board of completion of the continuing education requirements established by the board.~~"

Section 62. Section 37-17-202, MCA, is amended to read:

"**37-17-202. Powers.** (1) The board may make reasonable and necessary rules for the proper performance of its duties and for the regulation of proceedings before it.

(2) In addition to the other powers and duties set forth, the board may:

(a) revoke and suspend licenses;

(b) conduct hearings upon complaints concerning persons licensed under this chapter;

(c) cause the prosecution and enjoinder of all persons violating this chapter, by the complaint of its secretary signed with the county attorney, in the county where the violation took place and incur necessary expenses ~~therefor~~ for the prosecution; and

(d) study and review new developments in research, training, and the practice of psychology and make recommendations to the governor and other state officials regarding new and revised programs and legislation related to psychology which could be beneficial to the citizens of the state of Montana~~;~~

~~(e) adopt rules for the administration of a continuing education program, including but not limited to accrediting education programs and establishing the number of hours of continuing education required for license renewal~~."

Section 63. Section 37-17-306, MCA, is amended to read:

"**37-17-306. Annual renewal.** (1) The license expires on ~~January 1 following~~ the date ~~of its issuance or renewal and is invalid thereafter~~ set by department rule. The department shall notify each person licensed under this chapter relative to the date of the expiration ~~of his license~~ and the amount of

~~his~~ the renewal fee. This notice ~~shall~~ must be mailed to each licensed psychologist at ~~his~~ the licensee's listed address at least 1 month before the expiration of the license.

(2) Renewal may be made by application during the 60 days prior to the expiration date. Failure on the part of a person licensed to pay ~~his~~ the renewal fee by the expiration date does not deprive ~~him~~ the person of the right to renew ~~his license~~, but the fee ~~shall~~ must be increased 10% for each month or major portion ~~thereof~~ of a month that the payment of the renewal fee is delayed after the expiration date. The maximum fee for delayed renewal may not exceed twice the normal renewal fee. Application for renewal following a lapse of 1 year or more will be subject to review by the board, and the applicant may be requested to complete an examination successfully if the board so determines.

~~(3) The board may charge an additional fee for license renewal to be used for administering the continuing education program established in 33-17-318.~~"

Section 64. Section 37-17-307, MCA, is amended to read:

"**37-17-307. Fees -- deposit of fees.** (1) The department shall collect the following fees, none of which is refundable:

(a) application fee;

(b) examination fee, an amount commensurate with the charge of the professional examination service and administrative costs of the department and as set by the board;

(c) certificate fee;

(d) renewal fee~~, including an amount sufficient to cover the costs of administering the continuing education program.~~

~~(2) Renewal certificates shall be secured annually and dated January 2~~.

~~(3)~~ (2) Fees received by the department ~~shall~~ must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6)."

Section 65. Section 37-18-202, MCA, is amended to read:

"**37-18-202. Powers of board and department -- examinations ~~--prosecutions~~.** (1) The board may adopt rules and orders necessary for the performance of its duties, including but not limited to:

(a) ~~development of continuing professional education requirements and exceptions therefrom;~~

~~(b)~~ prescribing of forms for application for examination and license; and

~~(c)~~ (b) preparation of examinations.

(2) The department shall, subject to 37-1-101, supervise the examination of applicants for license to practice veterinary medicine, obtain the services of professional examination agencies instead of its own preparation of examinations, and grant and revoke licenses.

~~(3) The department may employ attorneys, subject to the approval of the attorney general, to assist county attorneys in prosecutions brought under this chapter in the respective district courts of the state or to assist the attorney general in representing the board before the supreme court.~~"

Section 66. Section 37-18-303, MCA, is amended to read:

"**37-18-303. Examination -- temporary permit pending examination.** (1) Subject to 37-1-101, the board shall by means of examination, either oral, written, or practical or a combination of oral, written, or practical as the board determines, ascertain the professional qualifications for license of applicants under this part. ~~An investigation under reciprocity arrangements may replace examination for licensees from other states under 37-18-304.~~ The department shall issue a license to all who are found to be, in the judgment of the board, competent to practice. A license may not be issued to a person who is not found by the examination or investigation to be competent and qualified.

(2) The examination ~~shall~~ must be held when determined necessary by the board, but not less frequently than once each year at a time and place specified by the board. The examination ~~shall~~ must cover theory and practice, pharmacology and therapeutics, animal sanitation, surgery, communicable diseases, and other subjects chosen by the board which are ordinarily included in the curriculum of a school of veterinary medicine recognized and approved by the American veterinary medical association.

(3) The department shall consecutively number applications received, note on each the disposition made of it, and preserve them for reference and shall number consecutively licenses issued.

(4) ~~Applicants must~~ An applicant is required to achieve a grade of 70% in order to obtain a license. An applicant who has failed an examination may apply to be reexamined at a subsequent examination and shall pay another application fee commensurate with the costs of the examinations and set by the board and shall take another complete examination in all subjects.

~~(5) An applicant for examination may, in the discretion of the board, be given a temporary permit to practice veterinary medicine prior to taking the examination if the applicant is employed by and working under the supervision of and in the same office with a veterinarian licensed under this part. The temporary~~

~~permit is valid only until the date of the next examination. Under no circumstances may a second temporary permit be issued to the same person. A temporary permit may not be issued to a person who has failed an examination given under this section.~~"

Section 67. Section 37-18-305, MCA, is amended to read:

"**37-18-305. License -- issuance and contents.** (1) The board shall, at the conclusion of a regular examination or after investigation, ~~under the reciprocity arrangements of 37-18-304~~ if in its judgment the applicant is qualified, authorize the department to issue a license to practice veterinary medicine.

(2) Every license granted ~~shall~~ must be issued under seal and ~~shall~~ must be signed by the president and secretary-treasurer of the board and ~~shall~~ must state that the licensee has given satisfactory evidence of fitness as to age, character, veterinary medical education, and other matters required by law and that after full examination, ~~or investigation under reciprocity arrangements, he~~ the licensee has been found qualified to practice."

Section 68. Section 37-18-307, MCA, is amended to read:

"**37-18-307. Renewal -- fee -- continuing education -- automatic renewal for military personnel.** (1) A person licensed to practice veterinary medicine in this state shall procure a certificate of registration from the department annually on or before ~~November 1 annually his~~ the date set by department rule ~~certificate of registration~~. The certificate ~~shall~~ must be issued by the department on the payment of a fee fixed by the board and on presentation of evidence satisfactory to the board that the licensee ~~has complied with continuing education requirements established by the board~~ qualifies for renewal. ~~The board may waive, relax, or suspend continuing education requirements or particular program requirements for applicants who cannot fulfill those requirements because of individual hardship. New licensees who secure licenses by examination shall be granted a renewal the first year without attending the educational programs. The certificate is prima facie evidence of the right of the holder to practice veterinary medicine in this state during the time for which it is issued.~~

(2) Failure of a person licensed to procure a certificate of registration on or before ~~November 1, annually,~~ the date set by department rule constitutes a forfeiture of the license held by the person. A person who has ~~thus~~ forfeited ~~his~~ the license may have it restored ~~to him~~ by making written application for restoration within 1 year of the forfeiture, setting forth the reasons for failure to procure the certificate of

registration at the time specified and accompanied by payment of the registration fee provided for in this section and an additional restoration fee as the board requires ~~and by presentation of evidence satisfactory to the board that he has fulfilled all continuing education requirements to the date of application for restoration~~. The person making application for restoration of license within 1 year of its forfeiture is not required to submit to examination.

(3) Notwithstanding any other provisions in this chapter, a person licensed who enters or is called to active duty by a branch of the armed services of the United States is entitled to receive automatic registration of ~~his~~ the license during the period of ~~his~~ active duty with the armed services. However, within 1 year after release or discharge from duty in the armed services ~~he~~ the person shall procure a certificate of renewal from the department and pay the regular fee. Failure to procure the certificate of renewal within 1 year after release or discharge is the equivalent of a failure to procure a certificate of registration before November 1 of any year, and the same forfeiture and restoration requirements apply.

(4) A person licensed shall at all times have ~~his~~ the person's residence and office address on file with the department."

Section 69. Section 37-19-301, MCA, is amended to read:

"**37-19-301. Funeral director's license -- renewal -- fee.** The practice of funeral directing by anyone who does not hold a funeral director's license or a mortician's license issued by the department is prohibited. A person licensed to practice funeral directing on June 1, 1963, is entitled to an annual renewal of ~~his~~ the license on payment of a renewal fee to the department on ~~July 1 of each year~~ or before the date set by department rule. The amount of the annual renewal license fee ~~shall~~ must be set by the board. ~~A funeral director's license may not be issued to a person who is not licensed by the board of embalmers and funeral directors to practice funeral directing on June 1, 1963.~~"

Section 70. Section 37-19-306, MCA, is amended to read:

"**37-19-306. Annual renewal of mortician's license -- fee -- suspension for nonrenewal.** (1) The annual license fee for a mortician's license must be postmarked on or before ~~July 1 of the assessment year~~ the date set by department rule. The amount of the annual renewal fee ~~shall~~ must be set by the board.

(2) Failure to pay the annual renewal fee results in automatic suspension of the license. The license may be reinstated by the payment of unpaid renewal fees plus a penalty prescribed by the board."

Section 71. Section 37-19-401, MCA, is amended to read:

"37-19-401. License required -- display of license -- renewal -- penalty for late renewal. (1) An operating mortuary must be licensed by the board. The license must be displayed in a conspicuous place.

(2) A mortuary license expires on ~~June 30 of each year~~ the date set by department rule and may be renewed upon payment of a fee set by the board.

(3) The board may set a penalty for late renewal of a mortuary license."

Section 72. Section 37-19-702, MCA, is amended to read:

"37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal. (1) A person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture, voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and facilities for the cremation of human remains and that conducts cremations must be licensed by the board, beginning July 1, 1993. The license must be displayed in a conspicuous place in the crematory facility.

(2) A crematory license expires on ~~June 30 of each year~~ the date set by department rule and may be renewed upon payment of a fee set by the board, which includes the cost of annual inspection. If a crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection of both a mortuary facility under 37-19-403 and a crematory facility.

(3) The board may set a penalty fee for late renewal of a license.

(4) A person in charge of a licensed crematory facility must be licensed as a crematory operator by the board. A person employed by a licensed crematory facility must be licensed as a crematory technician by the board. The license must be displayed in a conspicuous place in the crematory facility.

(5) Crematory operator and crematory technician licenses expire on ~~June 30 of each year~~ the date set by department rule and may be renewed upon payment of a fee set by the board. On-the-job training must be provided to a crematory technician at the time of employment."

Section 73. Section 37-20-302, MCA, is amended to read:

"37-20-302. Utilization plan approval fee -- renewal of license -- renewal fee. (1) A utilization plan approval fee must be paid in an amount set by the board. Payment must be made when the utilization plan is submitted to the board and is not refundable.

(2) A locum tenens utilization plan approval fee must be paid in an amount set by the board.

(3) A license issued under this part must be renewed annually, on a date set by the ~~board~~ department.

(4) A license renewal fee set by the board must be paid at the time the license is renewed.

(5) The department shall mail a renewal notice no later than 60 days prior to the renewal date ~~set by the board under subsection (3)~~. A certified letter addressed to the delinquent licensee's last-known address as it appears on the records of the department constitutes notice of intent to revoke the license.

(6) If the annual renewal fee is not paid on or before the renewal date ~~set by the board under subsection (3)~~, the board may revoke the license after giving 30 days' notice to the licensee. A license may not be revoked for nonpayment of a renewal fee if the licensee pays the annual renewal fee plus a penalty prescribed by the board on or before the date fixed for revocation.

(7) Fees received by the department must be deposited in the state special revenue fund for use by the board in the administration of this chapter, subject to 37-1-101(6)."

Section 74. Section 37-20-403, MCA, is amended to read:

"**37-20-403. Physician assistant-certified as agent of supervising physician.** (1) In establishing protocol, a physician assistant-certified must be considered the agent of the supervising physician with regard to all duties delegated to the physician assistant-certified under the utilization plan. A health care provider shall consider the instructions of a physician assistant-certified as being the instructions of the supervising physician as long as the instructions concern the duties delegated to the physician assistant-certified under the utilization plan.

(2) The supervising physician and the physician assistant-certified are responsible for making available a copy of the approved utilization plan to all other health care practitioners with whom they reasonably believe they will interact on a regular basis.

~~(3) Nothing in this chapter may be construed to conflict with the provisions of 37-3-322.~~"

Section 75. Section 37-22-304, MCA, is amended to read:

"**37-22-304. Renewal of license.** (1) An application for renewal of an existing license must be made ~~within 60 days after the expiration of the license is timely, and the rights and privileges of the applicant during that period remain in effect~~ on or before the date set by department rule.

(2) Application for renewal must be made upon a form provided by the department. A renewal

license must be issued upon payment of a renewal fee set by the board and upon submitting proof of ~~completion of continuing education requirements~~ qualification for renewal.

(3) ~~An individual may renew a license in the manner provided in subsection (2) within 1 year of the expiration date of the license. An applicant for renewal shall provide the board with proof that the applicant has satisfied the continuing education requirements of the board for the year for which the license is to be renewed.~~

~~(4)~~ The renewal fee is increased by 10% for each month or part of a month that the renewal is delayed ~~after the 60-day period provided in subsection (1)~~. The maximum fee for delayed renewal may not exceed twice the normal renewal fee.

~~(5)~~ (4) A license not renewed within 1 year following its expiration date terminates automatically."

Section 76. Section 37-23-103, MCA, is amended to read:

"**37-23-103. Powers and duties of board.** (1) The board shall:

(a) recommend amendments to this chapter to the governor or the legislature, or both;

(b) recommend prosecutions for violations of 37-23-311 to the attorney general or appropriate county attorneys, or both;

(c) annually publish a list of the names and addresses of all persons who are licensed professional counselors;

(d) ~~establish requirements for continuing education that are conditions of license renewal;~~

~~(e)~~ meet to perform the duties described in this section;

~~(f)~~ (e) adopt rules that set professional and ethical standards for licensed professional counselors ~~which~~ that are based on national standards and ~~such~~ other rules as may be reasonably necessary for the administration of this chapter; and

~~(g)~~ (f) distribute a copy of the professional and ethical standards to each licensed professional counselor.

(2) The board may adopt rules governing the issuance of certificates of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a certificate is issued."

Section 77. Section 37-23-202, MCA, is amended to read:

"**37-23-202. (Temporary) Licensure requirements.** (1) An applicant for licensure must have satisfactorily completed:

(a) a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) 2,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) and passed an examination prepared and administered by:

(i) the board, based on a national examination approved by the board;

(ii) the national board of certified counselors; or

(iii) the national academy of certified clinical mental health counselors; and

(d) an application form and process prescribed by the board.

(2) The board shall provide by rule for licensure~~:~~

~~(a)~~ of a person who possesses a minimum 45 semester hour graduate degree that is primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years~~; and~~

~~(b) of a person who possesses a license or certification as a professional counselor from an agency located in another state whose requirements are less than the requirements of this chapter, by:~~

~~(i) crediting past clinical experience in psychotherapy and counseling; and~~

~~(ii) recommending additional education or experience necessary to fulfill the requirements of this chapter~~.

37-23-202. (Effective July 1, 1996) Licensure requirements. (1) An applicant for licensure must have satisfactorily completed:

(a) a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum, which resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must

have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) and passed an examination prepared and administered by:

(i) the board, based on a national examination approved by the board;

(ii) the national board of certified counselors; or

(iii) the national academy of certified clinical mental health counselors; and

(d) an application form and process prescribed by the board.

(2) The board shall provide by rule for licensure~~:~~

~~(a)~~ of a person who possesses a minimum 45 semester hour graduate degree that is primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years~~; and~~

~~(b) of a person who possesses a license or certification as a professional counselor from an agency located in another state whose requirements are less than the requirements of this chapter, by:~~

~~(i) crediting past clinical experience in psychotherapy and counseling; and~~

~~(ii) recommending additional education or experience necessary to fulfill the requirements of this chapter~~."

Section 78. Section 37-23-205, MCA, is amended to read:

"**37-23-205. Renewal of license.** (1) A license may be issued for no longer than 1 year. The ~~board~~ department may adopt rules to provide for annual renewal of an existing license.

(2) An application for renewal of an existing license must be made ~~within 60 days after~~ on or before the expiration ~~of the license is timely, and the rights and privileges of the applicant during that period remain in effect~~ date set by department rule.

(3) Application for renewal must be made upon a form provided by the department. A renewal license must be issued upon payment of a renewal fee set by the board and upon submitting proof of ~~completion of continuing education requirements established by the board~~ qualification for renewal.

(4) ~~An individual may renew a license in the manner provided in subsection (3) within 1 year of the expiration date of the license. An applicant for renewal shall provide the board with proof that the applicant has satisfied the continuing education requirements of the board for the year for which the license is to be renewed.~~

~~(5)~~ The renewal fee is increased by 10% for each month or part of a month that the renewal is delayed ~~after the 60-day period provided in subsection (2)~~. The maximum fee for delayed renewal may not exceed twice the normal renewal fee.

~~(6)~~ (5) A license not renewed within 1 year following its expiration date terminates automatically."

Section 79. Section 37-24-202, MCA, is amended to read:

"**37-24-202. Powers and duties of board.** (1) The board shall:

(a) administer, coordinate, and enforce the provisions of this chapter;

(b) evaluate the qualifications of applicants for licensure under this chapter and approve and supervise the examination of ~~such~~ applicants;

(c) ~~investigate persons engaging in practices that allegedly violate the provisions of this chapter;~~

~~(d)~~ adopt rules relating to professional licensure and the establishment of ethical standards of practice under this chapter;

~~(e)~~ (d) conduct hearings and keep records and minutes as the board considers necessary to carry out its functions; and

~~(f)~~ (e) adopt a seal by which the board shall authenticate its proceedings.

(2) A copy of the proceedings, records, or acts of the board, signed by the ~~chairman~~ presiding officer or secretary of the board and stamped with the seal, is prima facie evidence of the validity of ~~such~~ the document.

(3) The department may employ persons it considers necessary to carry out the provisions of this chapter."

Section 80. Section 37-24-308, MCA, is amended to read:

"**37-24-308. Renewal of license ~~— inactive status~~.** ~~(1)~~ Each license issued under this chapter is subject to annual renewal on the date set by department rule upon the payment of a renewal fee and expires unless renewed in the manner prescribed by the rules of the board. The board may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules, but ~~no~~ a late renewal of a license may not be granted more than 5 years after its expiration.

~~(2) Upon request, the board may grant inactive status to a licensee who:~~

~~(a) does not practice as an occupational therapist or an occupational therapy assistant; and~~

~~(b) does not hold himself out as an occupational therapist or an occupational therapy assistant.~~"

Section 81. Section 37-25-307, MCA, is amended to read:

"**37-25-307. Renewal of license ~~— continuing education~~.** (1) An application for renewal of license must be made annually on a date set by the ~~board~~ department.

(2) A renewal license must be issued when the applicant submits proof that requirements for ~~continuing education~~ continued licensure have been met and pays a renewal fee set by the board commensurate with costs.

(3) An additional fee may be imposed on applications for renewal received by the board more than 30 days after the annual renewal date."

Section 82. Section 37-26-201, MCA, is amended to read:

"**37-26-201. Powers and duties of board.** The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination;

(4) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

(5) adopt rules that set nonrefundable fees, commensurate with costs, for application, examination, licensure, and other administrative services;

(6) approve naturopathic medical colleges as defined in 37-26-103;

~~(7) adopt rules for the investigation of complaints against naturopathic physicians, for hearings on complaints, and to impose disciplinary action against naturopathic physicians found to be in violation of this chapter;~~

~~(8) investigate individuals falsely claiming to be naturopathic physicians and act in cooperation with county attorneys to enforce the provisions of this chapter;~~

~~(9) adopt rules that establish, approve, and routinely review a continuing education curriculum and accreditation for naturopathic physicians that is required for license renewal;~~

~~(10)~~ (7) issue certificates of specialty practice; and

~~(11) issue temporary licenses as provided for in 37-26-403; and~~

~~(12)~~ (8) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery or the legend drugs allowed under 37-26-301."

Section 83. Section 37-26-403, MCA, is amended to read:

"37-26-403. Application for licensure -- examination -- temporary license. (1) A person who desires a license to practice naturopathic medicine in Montana shall apply to the department in the manner and form prescribed by the board. The application must be accompanied by the license fees, the application fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the ~~board~~ department may make an independent investigation to determine whether the applicant possesses the necessary qualifications and whether the applicant has committed unprofessional conduct that would be basis for licensure denial. At the board's request, the applicant shall provide necessary authorizations for the release of records and information pertinent to the ~~board's~~ department's investigation.

(2) A person who applies for licensure but who has not passed a licensure examination prescribed or endorsed by the board shall apply to the board for authorization to take the prescribed licensure examination. The application for examination must be accompanied by the examination fee. If the board finds that all other qualifications for licensure except that of examination have been met, the board shall authorize the applicant to take the licensure examination.

~~(3) A person who has actively engaged in the practice of naturopathic medicine in Montana prior to April 1, 1991, and who is a graduate of an approved naturopathic medical college may continue to practice naturopathic medicine until the board reviews his qualifications if he applies to and receives from the department a temporary license by October 1, 1991. The department shall issue a temporary license to a qualified applicant. The board shall, within 6 months of October 1, 1991, review the qualifications of each temporary licensee and either authorize the department to issue a license to a person qualified under 37-26-402 or 37-26-404 or extend the temporary license for a term of no more than 1 year to allow the~~

~~practitioner to pass the prescribed examination. A person who is not a graduate of an approved naturopathic medical college may not be granted a temporary license.~~"

Section 84. Section 37-27-105, MCA, is amended to read:

"**37-27-105. General powers and duties of board -- rulemaking authority.** (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board shall have the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of a license application and examination, criteria for and grading of examinations, and establishment of examination and license fees commensurate with actual costs;

(b) the issuance of a provisional license to midwives who filed the affidavit required by section 2, Chapter 493, Laws of 1989;

(c) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements that, at a minimum, meet the standards established in 37-27-201;

(d) the development of eligibility criteria for client screening by direct-entry midwives in order to achieve the goal of providing midwifery services to women during low-risk pregnancies;

(e) the development of procedures for the issuance, renewal, suspension, and revocation~~, and reciprocity~~ of licenses;

(f) the adoption of disciplinary standards for licensees;

~~(g) the establishment of investigatory and hearing procedures for processing complaints received by the board;~~

~~(h) the establishment of continuing education requirements of at least 14 hours annually for license renewal for direct-entry midwives;~~

~~(i)~~ (g) the development of standardized informed consent and reporting forms;

~~(j)~~ (h) the adoption of ethical standards for licensed direct-entry midwives;

~~(k)~~ (i) the adoption of supporting documentation requirements for primary birth attendants; and

~~(l)~~ (j) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in 37-27-201."

Section 85. Section 37-28-201, MCA, is amended to read:

"37-28-201. License required -- exceptions -- respiratory care not the practice of medicine. (1) Except as otherwise provided in this chapter, a person may not practice respiratory care or represent ~~himself to be~~ to the public that the person is a respiratory care practitioner unless ~~he is~~ licensed ~~or granted a temporary permit~~ under the provisions of ~~37-28-201 through 37-28-203 and 37-28-206~~ this chapter.

(2) This chapter does not prohibit:

(a) the practice of respiratory care that is an integral part of study by a student respiratory care practitioner;

(b) self-care by a patient or the gratuitous care by a friend or family member who does not ~~hold himself out~~ purport to be a respiratory care practitioner; or

(c) respiratory care rendered in the course of an emergency.

(3) ~~Nothing in this~~ This chapter is not intended to limit, preclude, or interfere with the practice of other persons and health care providers licensed by the appropriate agencies of the state of Montana.

(4) ~~Nothing in this~~ This chapter may not be construed to permit the practice of medicine."

Section 86. Section 37-28-202, MCA, is amended to read:

"37-28-202. Licensing requirements -- examination -- fees. (1) To be eligible for licensure by the board as a respiratory care practitioner, the applicant shall:

(a) submit to the board an application fee in an amount established by the board and a written application on a form provided by the board demonstrating that the applicant has completed:

(i) high school or the equivalent; and

(ii) a respiratory care educational program accredited or provisionally accredited by the American medical association's committee on allied health education and accreditation in collaboration with the joint review committee for respiratory therapy education or their successor organizations; and

(b) pass an examination prescribed by the board~~, unless the examination requirement is waived under subsection (2)~~. The board may use the entry-level examination written by the national board for

respiratory care or another examination that satisfies the standards of the national commission for health certifying agencies or the commission's equivalent.

~~(2) The board may issue a license to practice respiratory care to an applicant without requiring him to pass an examination if the applicant:~~

~~(a) is currently licensed to practice respiratory care under the laws of another state, territory, or country if the board considers the qualifications for licensure to be equivalent to those required in this state; or~~

~~(b) holds credentials, conferred by the national board for respiratory care, as a certified respiratory therapy technician or a registered respiratory therapist and affirms under oath that his credentials have not been suspended or revoked.~~

~~(3)~~ A person holding a license to practice respiratory care in this state may use the title "respiratory care practitioner" and the abbreviation "RCP"."

Section 87. Section 37-28-203, MCA, is amended to read:

"**37-28-203. Renewal of license -- application and fee.** (1) A respiratory care practitioner's license expires ~~annually on May 1~~ on the date set by department rule.

(2) A licensee may renew a license by:

(a) filing an application with the board on a form approved by the board; and

(b) paying a renewal fee in an amount established by the board~~; and~~

~~(c) documenting the completion of the continuing education requirements prescribed by the board.~~

~~(3) An application for renewal of a license made within 90 days after expiration of the license is timely, and the rights and privileges of the applicant remain in effect during that period~~."

Section 88. Section 37-29-201, MCA, is amended to read:

"**37-29-201. Board powers and duties.** The board has the following powers and duties:

(1) determination of the qualifications of applicants for licensure under this chapter;

(2) administration of examinations for licensure under this chapter;

(3) collection of fees and charges prescribed in this chapter;

(4) issuance, suspension, and revocation of licenses for the practice of denturitry under the conditions prescribed in this chapter; and

(5) to adopt, amend, and repeal rules necessary for the implementation, continuation, and enforcement of this chapter, including but not limited to ~~license applications,~~ form and display of licenses, license examination format, criteria and grading of examinations, disciplinary standards for licensees, and inspection of denturitry premises and facilities~~, and investigation of complaints~~."

Section 89. Section 37-29-303, MCA, is amended to read:

"**37-29-303. Application for license.** Upon application and payment of the appropriate fee, the board shall issue a license to practice denturitry to any applicant who meets ~~one of~~ the following criteria and scores a passing grade on the examination for licensure:

~~(1) (a) Applications for persons engaged in the practice of denturitry on December 1, 1984, must be filed prior to April 1, 1985, and must include the following:~~

~~(i) three signed affidavits by persons other than family members that the applicant has been employed in denture technology for at least 5 years prior to application, is able to demonstrate competency in intraoral procedures, and has been a resident of the state of Montana for at least 6 months prior to April 1, 1985; and~~

~~(ii) documentation that the applicant has successfully completed courses approved by the board in head and oral anatomy and physiology, oral pathology, partial denture construction and design, clinical dental technology, radiology, dental laboratory technology, asepsis, clinical jurisprudence, medical emergencies, and cardiopulmonary resuscitation.~~

~~(b) Subsection (1)(a) must be applied retroactively to permit qualification of license applicants initially qualified and applying prior to the appointment and qualification of the original board under this chapter and section 27 of I.M. No. 97.~~

~~(2) Applications filed on or after April 1, 1985, must include:~~

~~(a)~~ (1) documentation that the applicant has completed formal training of not less than 2 years at an educational institution accredited by a national or regional accrediting agency recognized by the Montana state board of regents, the curriculum of which includes courses in head and oral anatomy and physiology, oral pathology, microbiology, partial denture construction and design, clinical dental technology, radiology, dental laboratory technology, asepsis, clinical jurisprudence, and medical emergencies, including cardiopulmonary resuscitation; and

~~(b)~~ (2) documentation that the applicant:

~~(i)~~ (a) has completed 1 year of internship under the direct supervision of a licensed denturist; or

~~(ii)~~ (b) has 3 years of experience as a denturist under licensure in another state or Canada.

~~(3) A denturist who has been lawfully licensed or certified by initial licensing provisions in any state or territory that maintains a standard of denturitry which is equal to that of Montana must submit a certificate from the examining body of the state or territory in which he is certified or licensed, attesting to 5 years' practice under the certificate of license. However, no applicant may be licensed under the provisions of this subsection unless the state or territory in which he is licensed or certified extends a like privilege to denturists licensed by the state of Montana to practice denturitry. The board may enter into reciprocal relations with those states or territories whose laws are compatible with this chapter.~~"

Section 90. Section 37-29-306, MCA, is amended to read:

"**37-29-306. Licensing.** (1) ~~After March 1, 1985, a~~ A denturist license is valid for a period of 1 year and expires on the date set by department rule. A renewal license must be issued upon timely payment of the renewal fee and the submission of proof of ~~the completion of not less than 12 hours of continuing education, which may include programs sponsored by an educational institution, state denturist licensing board, or a recognized denturist organization. Subject matter must be pertinent to denturitry as enumerated in 37-29-305(3). Approval of acceptable hours of continuing education must be made by the board. The board may approve, in one action, all the courses presented by a particular organization if the board is satisfied that the courses presented by that organization meet the requirements of this section. Hours pertain to clock hours actually attended by the licensee~~ continued qualification for licensure. In addition, the denturist shall submit proof that ~~he~~ the denturist holds a current cardiopulmonary resuscitation card. ~~A license issued effective as of a date other than March 1 will be valid until midnight February 28 next following the date it was issued.~~ The license ~~shall~~ must bear on its face the address where the licensee's denturist services will be performed.

(2) Applications must be submitted on forms approved by the board and furnished by the department. Each application must include all other documentations necessary to establish that the applicant meets the requirements for licensure and is eligible to take the licensure examination. Applications must be accompanied by the appropriate fees.

~~(3) After April 1, 1985, the board may by rule alter future renewal dates for licenses under this chapter.~~"

Section 91. Section 37-29-403, MCA, is amended to read:

"**37-29-403. Procedure for making and fitting partial denture.** (1) Prior to making and fitting a partial denture, a denturist shall:

(a) formulate a study model of the intended denture;

(b) refer the patient to a dentist, together with the model for tooth cleaning, mouth preparation, and x-rays, as needed; and

(c) make the partial denture and fit it to the existing teeth after the dentist has completed the procedures listed in subsection (1)(b) and in accordance with the dentist's recommendations.

(2) A denturist may not cut, surgically remove, or surgically reduce any tissue or teeth in the process of fitting a partial denture.

~~(3) A denturist who makes or fits a partial denture in a manner not consistent with this section is subject to the sanctions provided in 37-29-311.~~"

Section 92. Section 37-30-301, MCA, is amended to read:

"**37-30-301. Certificate required.** ~~(1) Except as provided in subsection (2), a~~ A person may not practice or attempt to practice barbering unless ~~he~~ the person first receives from the department a certificate of registration.

~~(2) The board may authorize the department to grant a temporary certificate to any person qualified to take the examination required by 37-30-305 who pays a temporary certification fee prescribed by the board. A person holding a temporary certificate may engage in the practice of barbering under the supervision of a certified barber for a period of 90 days or until the next examination scheduled by the board, whichever is longer.~~"

Section 93. Section 37-30-305, MCA, is amended to read:

"**37-30-305. Examination.** Except as provided ~~in 37-30-309~~ by rules adopted under [section ~~20~~ 19] to implement [section 4], an applicant for a barber's certificate of registration ~~must~~ shall apply to the department to take the examination for a barber's certificate of registration."

Section 94. Section 37-31-322, MCA, is amended to read:

"**37-31-322. Renewal ~~—continuing education~~ -- delinquency fee.** (1) Licenses and certificates may

not be issued for ~~no~~ longer than 1 year unless otherwise provided by department rule. Licenses and certificates expire on ~~December 31 unless otherwise provided by rule or~~ the date set by department rule and may be renewed ~~for the next year or renewal period~~. Licenses and certificates may be renewed by application made ~~prior to December 31 of each year, unless otherwise provided,~~ on or before the renewal date and by the payment of a required renewal fee. Expired licenses and certificates may be renewed under rules made by the board, but the right to renew an expired license or certificate terminates after 10 years of nonpayment. ~~The board may provide by rule for a change in the renewal date and renewal period for the manager-operator and salon owner category.~~ The renewal fee may not exceed twice the fee for a 2-year renewal or three times the fee for a 3-year renewal and must be as set by the board.

~~(2) In addition to the foregoing requirements for renewal, persons applying for the renewal of licenses to teach cosmetology must have fulfilled the following additional requirements:~~

~~(a) During each year, an active teacher, either full-time or part-time, must have successfully completed 15 hours' professional teacher training at a school approved by the board.~~

~~(b) A person holding a license to teach cosmetology but not actively engaged either full-time or part-time in teaching cosmetology or manicuring during the preceding year may renew the license by paying the required fee. A person holding a license to teach cosmetology but not actively engaged in teaching cosmetology or manicuring either full-time or part-time for the preceding year or longer and wishing to resume active teaching of cosmetology or manicuring must successfully complete 30 hours' professional teacher training at a school approved by the board before resuming active teaching. However, the foregoing provisions do not prevent the board, under rules it adopts, from permitting a person who holds a license to teach cosmetology and who is not actively engaged either full-time or part-time in teaching cosmetology or manicuring from teaching as a substitute for an active teacher.~~

~~(3)~~ (2) A fee prescribed by the board must be charged, in addition to other fees fixed by law, for renewal applications of licenses and certificates made after December 31 of each year or other predetermined renewal deadline."

Section 95. Section 37-32-305, MCA, is amended to read:

"**37-32-305. Fees -- renewal -- deposit of moneys collected.** (1) The fee for an original electrologist license ~~shall~~ must be set by the board. The renewal ~~shall be~~ is automatic, unless revoked or suspended for cause, and the renewal fee ~~shall~~ must be set by the board.

(2) The fee for an original electrologist salon license ~~shall~~ fee must be the same as that for cosmetology salons. The renewal fee ~~shall~~ must be the same as that for cosmetology salons.

(3) ~~All licenses~~ A license issued under this chapter ~~expire~~ expires on ~~December 31 and shall~~ the date set by department rule and may be renewed annually. Failure to renew ~~on or before December 31 shall cause~~ subjects the licensee to a late renewal fee prescribed by the board to be added to the regular renewal fee. The right to renew by payment of the late renewal fee expires after 3 years of nonpayment.

(4) All fees or ~~moneys~~ money collected by the department under this chapter ~~shall~~ must be deposited in the state special revenue fund for the use of the board in administration of the chapter."

Section 96. Section 37-34-201, MCA, is amended to read:

"**37-34-201. Powers and duties of the board -- rulemaking authority.** (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of a license application procedure and acceptable certifications for each category of license;

(b) the establishment of license fees commensurate with actual costs;

(c) the establishment of criteria for educational requirements that, at a minimum, meet the standards set forth in 37-34-303;

(d) the development of procedures for the issuance, renewal, suspension, revocation, and reciprocity of licenses;

(e) the adoption of disciplinary standards for licensees;

(f) the establishment of ~~investigatory and~~ hearing procedures ~~for processing complaints received by the board~~; and

(g) ~~the establishment of continuing education requirements of at least 14 hours annually for license~~

~~renewal for clinical laboratory practitioners; and~~

~~(h)~~ a requirement that the supervisor of a clinical laboratory technician be accessible at all times that testing is being performed by the technician in order to provide onsite, telephonic, or electronic consultation."

Section 97. Section 37-34-305, MCA, is amended to read:

"**37-34-305. Licensure application procedures.** (1) An applicant shall submit an application for a license to the board upon the forms prescribed and furnished by the board and shall pay an application fee set by the board.

(2) Upon receipt of the application and fee, the board shall issue a license for a clinical laboratory scientist, a clinical laboratory specialist, or a clinical laboratory technician to any person who meets the qualifications specified by the board as set forth in rules adopted by the board pursuant to 37-34-201 and 37-34-303.

(3) A license issued under this chapter must be renewed ~~by May 1 of each year~~ on or before the date set by department rule.

(4) Except for the assessment provided in 37-1-101(6), money paid for application, license, and license renewal fees must be deposited in the state special revenue fund for use by the board."

Section 98. Section 37-40-203, MCA, is amended to read:

"**37-40-203. Rulemaking power.** (1) The board may adopt rules, consistent with the purposes of this chapter, as it considers necessary.

(2) The board's rulemaking and hearing functions ~~shall~~ must be in accordance with the Montana Administrative Procedure Act. The board shall adopt rules:

(a) establishing standards of professional conduct in order to maintain a high standard of integrity, dignity, and competency in the profession of sanitarian, including competency in specific fields of sanitation;

(b) governing the conduct of matters before the board;

(c) governing educational equivalency requirements, as provided in 37-40-302, for registration of sanitarians; and

(d) ~~prescribing requirements for continuing education to be met by registered sanitarians in order~~

~~to maintain their professional knowledge and competence and as a condition to continuing in the practice of the profession of sanitarian; and~~

~~(c)~~ defining qualifications for sanitarian-in-training status for issuance of the initial annual permit."

Section 99. Section 37-40-304, MCA, is amended to read:

"**37-40-304. Fees -- renewal.** (1) An applicant for a license shall pay a fee set by the board in an amount commensurate with examination and administrative costs.

(2) A registered sanitarian may renew ~~his~~ the license by paying an annual fee and meeting qualifications set by the board ~~and submitting proof of continuing education as prescribed by the board~~.

(3) Renewal fees are due ~~July 1 of~~ on or before the renewal ~~year~~ date set by department rule. If the renewal fee is not paid, the license expires. Licenses which have lapsed for failure to pay renewal fees may be reissued under rules adopted by the board."

Section 100. Section 37-47-307, MCA, is amended to read:

"**37-47-307. Investigation of applicant -- issuance or denial of license.** (1) The ~~board~~ department shall investigate each applicant for an outfitter's or professional guide's license. ~~and~~ The board shall determine the applicant's qualifications.

(2) The board may deny or refuse to issue any new license or to renew any previous license if the applicant does not meet the qualifications stated in this section. In the event that any application for license is denied or refused, the board shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) Final decision as to issuance of renewal licenses must be made not later than 30 days from the date of receipt of the completed application for renewal and not later than 90 days from the date of receipt of a completed application for a new license.

(4) A licensee in good standing is entitled to a new license for the ensuing license year upon complying with the provisions of this chapter and renewal deadlines and fees imposed by rule of the board and completing an application for license renewal on a form provided by the board."

Section 101. Section 37-50-203, MCA, is amended to read:

"**37-50-203. Rules of the board.** (1) The board may adopt ~~such~~ rules, consistent with the purposes

of this chapter, as it considers necessary.

(2) The board shall adopt:

(a) rules of professional conduct appropriate to establish and maintain a high standard of integrity, dignity, and competency in the profession of public accounting, including competency in specific fields of public accounting;

(b) rules of procedure governing the conduct of matters before the board;

(c) rules governing education requirements, as provided in 37-50-305, for issuance of the certificate of a certified public accountant and the license for licensed public accountant;

~~(d) rules prescribing requirements for continuing education to be met by certified public accountants and licensed public accountants, in order to maintain their professional knowledge and competence, as a condition to continuing in the practice of public accounting. In issuing rules and individual orders regarding continuing education, the board in its discretion:~~

~~(i) may, among other things, use or rely upon guidelines and pronouncements of recognized educational and professional associations;~~

~~(ii) may prescribe the content, duration, and organization of courses; and~~

~~(iii) shall take into account the accessibility to applicants of such continuing education as it may require and any impediments to interstate practice of public accounting that may result from differences in such requirements in other states;~~

~~(e)~~ rules governing partnerships and corporations practicing public accounting, including but not limited to rules concerning their style, name, title, and affiliation with any other organization and establishing reasonable standards with respect to professional liability insurance and unimpaired capital and prescribing joint and several liability for torts relating to professional services for shareholders of any ~~such~~ corporation failing to comply with ~~such~~ the standards;

~~(f) internal rules considered necessary to initiate and conduct investigations and protect the confidences of the client of any certified public accountant or licensed public accountant subjected to board disciplinary proceedings;~~

~~(g)~~ (e) rules defining requirements for accounting experience, not exceeding 2 years, for issuance of the initial annual permit; and

~~(h)~~ (f) rules to enforce the provisions of this chapter~~,~~. ~~the~~ The purpose of ~~which~~ the rules ~~shall~~ must be to provide for the monitoring of the profession of public accounting and to maintain the quality of the

accounting profession."

Section 102. Section 37-50-314, MCA, is amended to read:

"**37-50-314. Annual permit required -- display.** (1) ~~No~~ A person may not engage in the practice of public accounting in this state ~~unless he holds~~ without a current annual permit issued by the department. An annual permit to engage in the practice of public accounting in this state ~~shall~~ must be issued by the department to a person who holds a current certificate as a certified public accountant or license as a licensed public accountant and complies with the requirements of this chapter.

~~(2) After the expiration of the 3-year period immediately following the effective date of a board rule establishing continuing education requirements, each application for renewal of a permit by a person who has held his certificate or license for 3 years or more must be accompanied or supported by evidence satisfactory to the board of fulfillment of such requirements during the 3-year period immediately preceding the application.~~

~~(3) The board may in its discretion waive the requirement stated in subsection (2) if the applicant agrees to follow a particular program or schedule of continuing education agreeable to the board.~~

~~(4) The board may relax or suspend continuing education requirements for an applicant who certifies that he does not intend to engage in the practice of public accounting and for an applicant who cannot fulfill the requirement due to individual hardship.~~

~~(5) Subject to subsections (3) and (4), the board may revoke, suspend, or refuse to renew the permit of an applicant who fails to furnish evidence of having met the continuing education requirements established by the board.~~

~~(6)~~ (2) The current annual permit to engage in the practice of public accounting must be prominently displayed for public inspection."

Section 103. Section 37-50-317, MCA, is amended to read:

"**37-50-317. Certificate, license, and permit expiration -- renewal fees.** (1) Certificates, licenses, and permits issued by the board expire on ~~December 31 of each year~~ the date set by department rule.

(2) Certificates and licenses must be renewed by the department upon payment of the annual renewal fee and upon compliance with requirements prescribed by the board.

(3) Permits must be renewed by the department upon payment of the annual renewal fee and upon

compliance with the ~~continuing education~~ requirements prescribed by the board."

Section 104. Section 37-51-204, MCA, is amended to read:

"**37-51-204. Educational programs ~~and continuing education~~.** (1) The board may, subject to 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or institutes and incur necessary expenses in this connection.

(2) ~~The board may assist libraries and educational institutions in sponsoring studies and programs for the purpose of raising the standards of the real estate business and the competency of licensees~~ EXCEPT AS PROVIDED IN 37-51-302, THE BOARD MAY NOT REQUIRE EXAMINATIONS OF LICENSEES.

~~(3) The board may prescribe by rule continuing education requirements for all licensees, not to exceed 15 classroom or equivalent hours in any 2-year period, including proof of conformance, but except as provided in 37-51-302 the board may not require examination of licensees.~~"

Section 105. Section 37-51-306, MCA, is amended to read:

"**37-51-306. Transactions with nonresidents and with nonlicensed brokers or salesmen -- ~~reciprocity~~ -- consent to legal process.** (1) A licensed broker may not employ or compensate, directly or indirectly, a person for performing the acts regulated by this chapter who is not a licensed broker or licensed salesman. However, a licensed broker may pay a commission to a licensed broker of another state if the nonresident broker has not conducted and does not conduct in this state a service for which a fee, compensation, or commission is paid. ~~This subsection does not limit the next subsection.~~

(2) ~~A person who is licensed as a broker or a salesman in another state may obtain a license as a broker or as a salesman in this state by complying with this chapter and with the rules of the board. However, this section applies only to licensees of other states that offer the same privileges to the licensees of this state. A nonresident licensee need not maintain a place of business in this state. The board may:~~

~~(a) authorize the department to license a nonresident without examination if he files with the department an authorized or certified copy of the license issued in another state and pays to the department the same license fee as is required for obtaining a license in this state;~~

~~(b) refuse to authorize the department to issue a license to an applicant who is not a resident of this state; and~~

~~(c) enter into reciprocal agreements with other states.~~

~~(3)~~ A nonresident licensee shall file an irrevocable written consent that legal actions arising out of a commenced or completed transaction may be commenced against the nonresident licensee in a county of this state that may be appropriate and designated by Title 25, chapter 2, part 1. The consent must provide that service of summons in this action may be served on the department for and on behalf of the nonresident licensee, and this service is sufficient to give the court jurisdiction over the licensee conducting a transaction in a county. The consent must be acknowledged and, if made by a corporation, must be authenticated by its seal."

Section 106. Section 37-51-311, MCA, is amended to read:

"**37-51-311. Fees -- deposit of fees.** ~~(1)~~ The fees prescribed by the board ~~shall~~ must be charged by the department and paid into the state special revenue fund for the use of the board, subject to 37-1-101(6).

~~(2) The board shall charge an annual fee from a licensee who wishes to be placed in an inactive status. A licensee who is placed in an inactive status by the board and who has paid the required fee need not pay any fee assessed by the board for the purpose of funding the real estate recovery account during the period the licensee remains in inactive status.~~"

Section 107. Section 37-53-211, MCA, is amended to read:

"**37-53-211. Approval or disapproval of application or registration.** (1) Registration of a timeshare offering is effective upon written notice of approval of the application by the board or upon the passage of 30 calendar days after filing of a completed application if not approved or denied prior to that time.

(2) The board may issue an order~~, subject to 37-53-503,~~ denying, suspending, or revoking any application or registration if the board finds that the order is in the public interest and that:

(a) the application or registration is incomplete or contains a statement that is false or misleading with respect to any material fact;

(b) any provision of this chapter or any rule or order lawfully issued under this chapter has been violated;

(c) the activities of the developer include or would include activities that are illegal; or

(d) the timeshare offering has worked or would tend to work a fraud on purchasers.

(3) The board shall promptly notify the applicant or registrant of any order denying, suspending,

or revoking registration and of the applicant's or registrant's right to request a hearing within 20 days of receipt of notification. If the applicant or registrant does not request a hearing, the order remains in effect until the board modifies or vacates it."

Section 108. Section 37-53-302, MCA, is amended to read:

"**37-53-302. Denial, suspension, or revocation of license or application.** The board may by an order~~, subject to 37-53-503,~~ deny, suspend, or revoke a timeshare salesperson's or timeshare broker's license or application for license if the board finds that the order is in the public interest and that the applicant or licensee:

(1) has filed an application for licensure and personal disclosure statement as a timeshare salesperson or timeshare broker that is incomplete in any material respect or contains any statement that is, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) has violated or failed to comply with any provision of this chapter, rules adopted under this chapter, or Title 37, chapter 51;

(3) has been convicted of a felony involving theft, fraud, or any consumer protection statute or a felony involving moral turpitude and related to the occupation of timeshare salesperson or timeshare broker;

(4) is permanently or temporarily enjoined by a court from engaging in or continuing any conduct or practice involving an aspect of the timeshare business;

(5) has engaged in dishonest or unethical practices in the timeshare business; or

(6) has not complied with any condition imposed by the board or is not qualified on the basis of knowledge of the timeshare industry or this chapter."

Section 109. Section 37-54-105, MCA, is amended to read:

"**37-54-105. Powers and duties of board.** The board shall:

(1) adopt rules to implement and administer the provisions of this chapter;

(2) establish and collect fees commensurate with the costs of licensure and certification and renewal of a license or certificate;

(3) make available application forms for licensure and certification within 15 days of the first meeting of the board;

(4) establish minimum requirements for education, experience, and examination for licensure and certification as set out by the appraisal qualification board of the appraisal foundation;

(5) receive applications for examination from qualified applicants, prescribe and administer examinations to qualified applicants, and determine the acceptable level of performance on examinations;

(6) receive and review applications for licensure and certification and issue licenses and certificates;

(7) review periodically the standards for development and communication of appraisals and adopt rules explaining and interpreting the standards;

(8) retain all applications and other records submitted to it;

(9) maintain a registry of the names and addresses of licensees and certificate holders;

(10) establish disciplinary procedures for reprimand, suspension, or revocation of a license and certificate;

(11) adopt by rule standards of professional appraisal practice in this state;

(12) reprimand, suspend, revoke, or refuse to renew the license or certificate of a person who has violated the standards established for licensed and certified real estate appraisers; and

(13) ~~establish criteria for courses and seminars consistent with the continuing education requirements set out in 37-54-210 and 37-54-310; and~~

~~(14)~~ perform other duties necessary to implement this chapter."

Section 110. Section 37-54-210, MCA, is amended to read:

"**37-54-210. License renewal ~~— continuing education requirements~~.** (1) A real estate appraiser's license expires on ~~March 31 following the date of issuance or renewal and is invalid thereafter~~ the date set by department rule.

(2) A licensee may renew a license~~, other than a temporary permit issued under 37-54-406,~~ by filing an application with the board on a form approved by the board, paying a renewal fee prescribed by the board, and meeting all requirements of this ~~section~~ chapter.

(3) In renewing a license, the board shall ~~assure~~ ensure that the licensee has a working knowledge of:

(a) current real estate appraisal theories; and

(b) practices and techniques that will enable the licensee to provide competent independent appraisal service under the authority of the license.

~~(4) An application for renewal must include evidence satisfactory to the board that within the 3-year period immediately following the date of issuance of the license and within each 3-year period thereafter, the licensee has completed at least 45 classroom hours of instruction in courses or seminars approved by the board, at least 15 hours of which must be related to standards of professional appraisal practice. Continuing education hours must be credited to the 3-year period during which the instruction occurred and may not be carried over to a subsequent 3-year period.~~"

Section 111. Section 37-54-211, MCA, is amended to read:

"**37-54-211. Late renewal of license.** (1) A license that is not renewed within 1 year of the most recent renewal date automatically terminates. A licensee may renew the license within the 1-year period from the date of most recent renewal by:

(a) filing with the board an application for late renewal on a form approved by the board;

(b) satisfying the ~~continuing education~~ requirements ~~of 37-54-210~~ for continued licensure; and

(c) paying a late renewal fee prescribed by the board.

(2) The board may refuse to renew a license if the licensee has continued to perform independent appraisal services as a licensed real estate appraiser following expiration of the license."

Section 112. Section 37-54-302, MCA, is amended to read:

"**37-54-302. Certification process -- fees.** (1) An application for examination for certification, original certification, or renewal of certification must be made in writing to the board on forms approved by the board.

(2) A fee established by the board by rule must accompany the application.

(3) When an applicant files an application for original certification or renewal of certification, the applicant shall sign a pledge ~~that he will~~ to comply with the standards of professional appraisal practice established for certified real estate appraisers under 37-54-403. ~~He shall also~~ and affirm that ~~he~~ the applicant understands the types of misconduct for which disciplinary action may be initiated ~~against him~~ under 37-54-402.

(4) To be eligible for original certification as a real estate appraiser, an applicant shall:

(a) specify the class or classes of certification for which the applicant is applying and provide evidence satisfactory to the board that ~~he~~ the applicant has the education required for the class or classes

of certification for which ~~he is applying~~ application is made; and

(b) pass an examination prescribed by the board.

(5) A certificate issued under 37-54-305 must bear the signatures or facsimile signatures of the members of the board and a certificate number assigned by the board."

Section 113. Section 37-54-310, MCA, is amended to read:

"**37-54-310. Renewal of certificate ~~—continuing education requirements~~.** (1) A certificate issued under 37-54-305 expires on ~~March 31 following the date of issuance or renewal and is invalid thereafter~~ the date set by department rule.

(2) A certificate may be renewed upon payment of a renewal fee and by meeting all requirements for renewal.

~~(3) (a) The certificate holder shall produce evidence satisfactory to the board that during the 3-year period immediately following the date of issuance of the certificate, and during each 3-year period thereafter, the certified real estate appraiser has:~~

~~(i) completed at least 45 classroom hours of instruction in courses or seminars approved by the board, at least 15 hours of which must be related to standards of professional appraisal practice;~~

~~(ii) completed an education program determined by the board to be equivalent to the courses and seminars approved under subsection (3)(a)(i); or~~

~~(iii) participated, other than as a student, in an education program approved by the board that relates to the theory and technique of real property appraisal.~~

~~(b) Continuing education hours must be credited to the 3-year period during which the instruction occurred and may not be carried over to a subsequent 3-year period.~~

~~(4)~~ (3) An applicant for renewal shall state the class of certification previously held and presently sought."

Section 114. Section 37-54-311, MCA, is amended to read:

"**37-54-311. Late renewal of certificate.** (1) A certificate that is not renewed within 1 year of the most recent renewal date automatically terminates. A certificate holder may renew the certificate within the 1-year period from the date of most recent renewal by:

(a) filing with the board an application for late renewal on a form approved by the board;

(b) satisfying the ~~continuing education~~ requirements ~~of 37-54-310~~ set by law; and

(c) paying a late renewal fee prescribed by the board.

(2) The board may refuse to renew a certificate if the certificate holder has continued to perform independent appraisal services in this state following expiration of the certificate."

Section 115. Section 37-60-202, MCA, is amended to read:

"**37-60-202. Rulemaking power.** The board shall adopt and enforce rules:

(1) specifying the form of and procedure to be used in granting, denying, suspending, or revoking any license or identification card;

(2) fixing the qualifications of resident managers, qualifying agents, licensees, and holders of identification cards, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare;

(3) establishing, in accordance with 37-1-134, application and examination fees for original or renewal licenses and identification cards, and providing for refunding of any ~~such~~ fees;

(4) prohibiting the establishment of branch offices of any licensee, except a proprietary security organization, without approval by the board, establishing qualification requirements and license fees for those offices;

(5) for the certification of private investigator and private security guard training programs, including the certification of firearms training programs and firearms instructors;

(6) for the approval of weapons;

(7) requiring the maintenance of records;

(8) requiring licensees to file ~~such~~ an insurance policy or proof of financial responsibility as the board considers necessary with the board; and

~~(9) defining "unprofessional conduct" for the purposes of removal from the board and suspension or revocation of licenses and identification cards;~~

~~(10) establishing the expiration and renewal periods for licenses and identification cards;~~

~~(11) for the temporary employment of persons without the required licenses or identification cards;~~

~~(12) providing for the issuance of probationary and temporary licenses for contract security companies and private investigators;~~

~~(13)~~ (9) providing for the issuance of probationary identification cards for private investigators who

do not meet the requirements for age, employment experience, and written examination~~; and~~

~~(14) providing for the application of administrative fines and penalties for minor infractions of this chapter and supporting rules~~."

Section 116. Section 37-60-301, MCA, is amended to read:

"**37-60-301. License required.** (1) Except as provided in 37-60-105, it is unlawful for any person to act as or perform the duties as defined in 37-60-101 of a contract security company or proprietary security organization, a private investigator, or a private security guard without having first obtained a license from the board. Those persons licensed on April 18, 1983, shall retain their current licensure status and ~~must~~ shall renew their licenses on the renewal date as prescribed by the ~~board~~ department.

(2) It is unlawful for any unlicensed person to act as, pretend to be, or represent ~~himself~~ to the public that the person ~~as being~~ is licensed as a private investigator, a contract security company, a proprietary security organization, or a private security guard.

(3) A person who knowingly engages an unlicensed private investigator, private security guard, or contract security company is guilty of a misdemeanor punishable under 37-60-411."

Section 117. Section 37-60-312, MCA, is amended to read:

"**37-60-312. Annual renewal.** (1) Licenses and identification cards issued under this chapter expire at midnight on the dates prescribed by ~~the board~~ department rule if not, in each instance, renewed. To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

(2) The board may refuse to renew a license or identification card for any reason for which it could refuse to grant an original application or suspend or revoke any license or identification card ~~under 37-60-321~~."

Section 118. Section 37-60-411, MCA, is amended to read:

"**37-60-411. Penalties -- investigation -- enforcement -- review.** (1) Any person who violates any of the provisions of this chapter or who conspires with another person to violate any of the provisions of this chapter relating to licensure is guilty of a misdemeanor punishable by a fine of not more than $1,000, ~~or~~ by imprisonment of not more than 1 year, or by both ~~such~~ fine and imprisonment.

(2) The board shall:

(a) gather evidence of violations of this chapter, and of any rule established pursuant to this chapter, by persons engaged in a business subject to licensure under this chapter who fail to obtain licenses; and

(b) furnish that evidence to prosecuting officers of any county or city.

(3) The prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within ~~his~~ the prosecutor's jurisdiction.

~~(4) (a) If upon investigation the board considers it appropriate, it may issue a citation to a licensee. The citation may contain:~~

~~(i) an order of abatement fixing a reasonable time for abatement of the violation; and~~

~~(ii) assessment of an administrative fine in an amount not to exceed $500 for each violation of this chapter.~~

~~(b) A citation or fine assessment must inform the licensee that if he contests the finding of a violation, a review by the board may be requested in accordance with the Montana Administrative Procedure Act. If a review is not requested pursuant to this section, payment of the fine does not constitute an admission of the violation charged.~~

~~(c) If the licensee neither requests a review nor pays the assessed fine within 20 days of notice of the citation, the board shall suspend the license of such person 30 days after the notice of citation.~~

~~(d) All fines collected pursuant to this section must be deposited in the state special revenue fund for use of the board.~~"

Section 119. Section 37-65-306, MCA, is amended to read:

"**37-65-306. Annual renewal -- fee ~~— continuing education~~.** ~~(1)~~ A licensed architect in this state who desires to continue the practice of ~~his~~ the profession shall annually, ~~during the month of July, during the time he continues in this practice~~ on or before the renewal date set by department rule:

~~(a)~~ (1) pay to the department a reasonable fee as prescribed by the board; and

~~(b)~~ (2) present evidence to the board of ~~compliance with any continuing education requirements imposed by the board~~ continued qualification for licensure.

~~(2) (a) The board may by rule prescribe continuing education requirements for license renewal. If the board prescribes continuing education requirements, the rules shall provide for the method of~~

~~compliance, such as:~~

~~(i) attendance at approved classroom or seminar type instruction programs; or~~

~~(ii) passing an examination.~~

~~(b) If classroom or seminar type instruction is required, the board shall by rule:~~

~~(i) make determinations as to approved programs; and~~

~~(ii) prescribe the number of hours required for compliance.~~

~~(c) If an examination is required, the board shall by rule prescribe:~~

~~(i) the subjects of the examination; and~~

~~(ii) the grade required to pass the examination.~~"

Section 120. Section 37-66-307, MCA, is amended to read:

"**37-66-307. Annual renewal -- withdrawal -- deposit of fees.** (1) Certification of licensure or renewal of registration ~~expire~~ expires on the ~~last day of June following their issuance or renewal~~ date set by department rule. Renewal may be effected ~~during the month of June~~ on or before the renewal date by payment to the department of the required fee. The board shall issue current renewal registration to each landscape architect promptly upon payment of the annual renewal registration fee.

(2) Any registrant in good standing, upon ceasing to practice landscape architecture, ~~may suspend his license by giving~~ shall give written notice to the board, and the board shall suspend the license. ~~Thereafter, he~~ The person may resume practice upon payment of the then-current fee and upon approval by the board.

(3) All fees received under the provisions of this chapter ~~shall~~ must be deposited in the state special revenue fund by the department. The ~~moneys~~ money collected ~~shall~~ must be used by the department to carry out the purpose, duties, and responsibilities of the chapter, subject to 37-1-101(6)."

Section 121. Section 37-67-202, MCA, is amended to read:

"**37-67-202. Rulemaking ~~and subpoena power~~.** ~~(1)~~ The board ~~shall have the power to~~ may adopt ~~and amend all~~ rules, including rules of procedure, ~~not inconsistent with the constitution and laws of this state, which may be~~ reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it.

~~(2) In carrying into effect the provisions of this chapter, the board, under the hand of its chairman~~

~~and the seal of the board, may subpoena witnesses and compel their attendance and also may require the production of books, papers, documents, etc., in a case involving the revocation of registration or practicing or offering to practice without registration. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued or shall refuse to testify or produce any books, papers, or documents, the board may present its petition to the district court setting forth the facts, and thereupon such court shall, in a proper case, issue its subpoena to such person requiring his attendance before such authority and there to testify or to produce such books, papers, and documents as may be deemed necessary and pertinent by the board. Any person failing or refusing to obey the subpoena or order of the court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of said court.~~"

Section 122. Section 37-67-320, MCA, is amended to read:

"**37-67-320. Practice by partnerships and corporations.** (1) The practice of or offer to practice engineering or land surveying by registered professional engineers or registered professional land surveyors organized as a partnership or incorporated as a professional corporation under the provisions of the professional corporations law of this state or under the provisions of a similar law of any other state is permitted in this state if all the partners of the partnership or each officer and shareholder of the professional corporation are registered under or exempt from this chapter.

(2) The practice of or offer to practice engineering or land surveying by a partnership other than one provided for in subsection (1) or by a corporation, other than a professional corporation, is permitted in this state if:

(a) all officers, employees, and agents of a partnership or corporation who will perform the practice of engineering or land surveying within this state for the partnership or corporation are registered under this chapter;

(b) each person in responsible charge of the activities of a partnership or corporation, which activities constitute the practice of engineering or land surveying, is a professional engineer or professional land surveyor registered in this state or a person authorized to practice engineering or land surveying as provided in this chapter;

(c) the partnership or corporation has been issued a certificate of authorization by the board as provided in subsection (3);

(d) the partnership or corporation is jointly and severally responsible with and for the conduct or acts of its agents, employees, or officers concerning any professional engineering or land surveying services performed or to be executed in this state; an individual practicing engineering or land surveying is not relieved of the responsibility for ~~his~~ the individual's conduct or acts performed by reason of ~~his~~ the individual's employment by or relationship with the partnership or corporation; and

(e) all final drawings, specifications, plans, reports, or other engineering or land surveying papers or documents involving the practice of engineering or land surveying, when issued, are dated and bear the seals and signatures of the professional engineers or professional land surveyors registered under this chapter by whom or under whose responsible charge they were prepared.

(3) A partnership or corporation desiring a certificate of authorization or the renewal ~~thereof~~ of a certificate shall file a written application with the board listing the names and addresses of all partners of the partnership or officers and directors of the corporation and the names and addresses of all employees who are registered to practice engineering or land surveying in this state and who are or will be in responsible charge of any engineering or land surveying in this state by the partnership or corporation, together with any other information the board requires. Upon the receipt of an application and of a fee in an amount established by the board for the initial certificate or biennial renewal ~~thereof~~, the board shall issue to the partnership or corporation a certificate of authorization or a renewal ~~thereof, which certificate of authorization~~ that may not be transferred. If the board finds an error in an application or that facts exist which would entitle the board to suspend or revoke a certificate if issued to the applicant, the board shall deny the application. If a change occurs in the information submitted on the application of a partnership or corporation within the term of the authorization, the partnership or corporation shall file with the board a written report listing the change within 30 days after the change occurs. The provisions of this chapter concerning issuance, expiration, renewal, and reissuance of certificates of registration of individuals, except for 37-67-315(2), apply to certificates of authorization issued to partnerships and corporations under this subsection. Partnerships or corporations are subject to disciplinary proceedings and penalties and the board may reprimand them or revoke, suspend, or refuse to renew their certificates of authorization for cause in the same manner and to the same extent as provided in ~~37-67-331~~ Title 37, chapter 1. "Registrant" ~~and "certificate of registration" in 37-67-331 include~~ includes any partnership or corporation holding a certificate of authorization issued under this subsection, and "certificate of registration" includes ~~to such~~ the certificate of authorization."

Section 123. Section 37-68-201, MCA, is amended to read:

"**37-68-201. Organization -- meetings -- quorum -- rulemaking power -- seal.** (1) Each July, the board shall elect from its membership a president, ~~vice-president~~ vice president, and secretary-treasurer.

(2) The board shall meet quarterly and at ~~such~~ other times it considers necessary.

(3) A majority of the members of the board shall constitute a quorum for transaction of business.

(4) The board may:

(a) adopt rules for the administration of this chapter, for the licensing of electrical contractors~~, for continuing education,~~ and for the examination and licensing of master and journeymen electricians;

(b) adopt a seal;

(c) cause the prosecution and enjoinder of persons violating this chapter."

Section 124. Section 37-68-310, MCA, is amended to read:

"**37-68-310. License renewal every three years.** Licenses of residential electricians, journeyman electricians, or master electricians, unless they have been suspended or revoked by the board, must be renewed for a period of 3 years by the department on application for renewal made to the department ~~prior to July 15 of the year in which the prior license expired~~ on or before the renewal date set by department rule and on the payment of a renewal fee. If application for renewal is not made ~~prior to July 15~~ on or before the renewal date, an additional fee prescribed by ~~the~~ board rule must be paid ~~because of the delinquency in renewal. All applications for renewal must be made prior to August 15 of the year in which the prior license expired, otherwise the license is forfeited and the applicant is required to pass the examination and pay the fees required of applicants for original licenses~~."

Section 125. Section 37-68-312, MCA, is amended to read:

"**37-68-312. Electrical contractor's license -- application -- issuance -- fees -- renewal.** Each electrical contractor shall, on or before ~~July 1 of the year in which the prior license expired~~ the date set by department rule, file with the department an application in writing for each firm operated by the electrical contractor in this state ~~to obtain a~~ for renewal of the license. A license may not be issued or renewed until the applicant meets the licensure requirements and has paid to the department a license fee set by the board for each firm operated by the electrical contractor. Licenses must bear the date of ~~issue~~ issuance or renewal. ~~Each original license expires on the July 1 that is subsequent to the date of issuance, as~~

~~determined by the board. An electrical contractor licensed under this chapter is entitled to have a~~ A license must be renewed for ~~the ensuing~~ a 3-year period ~~by~~ upon payment to the department of the license fee on or before the renewal date ~~of expiration of the license and by~~ and upon meeting the requirements set by ~~the~~ board rule."

Section 126. Section 37-71-212, MCA, is amended to read:

"**37-71-212. Investigation of applicant -- issuance of license.** ~~It~~ The department shall ~~be the duty of the department to~~ investigate and determine ~~the~~ a license applicant's fitness to act in the capacity of public contractor ~~as defined in this chapter,~~ and ~~no~~ may not issue a license ~~shall be issued to such applicant~~ until ~~the expiration of~~ 10 days ~~from and~~ after the filing of ~~such~~ the application. The license ~~so issued in pursuance of the first application shall entitle the licensee to act as a public contractor within this state, subject to the limitations of such license, until the expiration of the then current calendar year~~ must be renewed each year on or before the renewal date set by department rule."

Section 127. Section 37-71-213, MCA, is amended to read:

"**37-71-213. Renewal -- waiting period after cancellation.** (1) Any license issued under the provisions of this chapter may be renewed for each successive calendar year by obtaining from the department a certificate of renewal thereof. For the purpose of obtaining ~~such~~ a certificate of renewal, the licensee shall file with the department an application ~~therefor~~, stating the field of contracting and class of license applied for and containing at least the same information as that required in the application for the original license. The application for ~~such certificate of~~ renewal must be made to the department on or before ~~March 1 of each successive calendar year, and such renewal certificate shall be good for the then current calendar year~~ the renewal date set by department rule.

(2) At the time of filing the application for a certificate of renewal, the applicant shall pay to the department a license fee equal to 50% of the license fee for the original license, provided that if any applicant for a certificate of renewal shall apply for a renewal under a different field or class from the license ~~theretofore~~ issued to ~~him~~ the applicant, ~~such~~ the new license ~~shall~~ may be issued only upon the same showing and under the same terms and conditions and upon payment of the same fee required for the issuance of an original license.

(3) All certificates of renewal ~~wherein~~ in which the applicant does not apply for a change in the

field or class of license ~~shall~~ must be issued by the department to the applicant ~~forthwith~~ when the application is filed and the license renewal fee is paid.

(4) After cancellation of a license, ~~such~~ the licensee ~~shall~~ may not be relicensed during the current calendar year in which the offense was committed."

NEW SECTION. **Section 128. Repealer.** Sections 20-26-1401, 20-26-1402, 20-26-1403, 20-26-1404, 20-26-1407, 20-26-1408, 20-26-1409, 20-26-1410, 20-26-1411, 37-3-322, 37-4-306, 37-4-321, 37-4-323, 37-4-324, 37-4-404, 37-5-303, 37-5-304, 37-5-311, 37-6-310, 37-7-203, 37-7-304, 37-7-305, 37-7-311, 37-7-607, 37-7-608, 37-7-710, 37-8-407, 37-8-417, 37-8-430, 37-8-433, 37-8-441, 37-8-442, 37-9-303, 37-9-311, 37-10-204, 37-10-303, 37-10-308, 37-10-311, 37-11-202, 37-11-307, 37-11-309, 37-11-320, 37-11-321, 37-12-303, 37-12-321, 37-13-305, 37-13-311, 37-13-312, 37-13-313, 37-13-314, 37-14-304, 37-14-321, 37-15-305, 37-15-309, 37-15-321, 37-16-406, 37-16-411, 37-16-414, 37-17-304, 37-17-311, 37-17-318, 37-18-304, 37-18-311, 37-19-305, 37-19-311, 37-19-312, 37-19-316, 37-19-404, 37-20-409, 37-22-306, 37-22-311, 37-22-312, 37-23-204, 37-23-207, 37-23-211, 37-23-212, 37-24-305, 37-24-307, 37-24-309, 37-25-306, 37-26-404, 37-26-408, 37-26-409, 37-26-410, 37-27-213, 37-27-216, 37-28-206, 37-28-210, 37-28-301, 37-29-311, 37-29-312, 37-29-313, 37-29-321, 37-30-306, 37-30-309, 37-30-502, 37-31-306, 37-31-307, 37-31-332, 37-32-303, 37-32-310, 37-34-304, 37-34-306, 37-34-308, 37-40-303, 37-40-311, 37-47-341, 37-47-342, 37-47-343, 37-47-346, 37-50-321, 37-50-322, 37-50-336, 37-51-206, 37-51-321, 37-51-322, 37-51-604, 37-51-606, 37-53-501, 37-53-502, 37-53-503, 37-54-401, 37-54-402, 37-54-406, 37-54-417, 37-60-212, 37-60-307, 37-60-308, 37-60-321, 37-60-322, 37-62-101, 37-62-102, 37-62-201, 37-62-202, 37-62-203, 37-62-204, 37-62-205, 37-62-206, 37-62-207, 37-62-208, 37-62-209, 37-62-212, 37-62-213, 37-62-301, 37-62-302, 37-62-303, 37-62-311, 37-65-305, 37-65-321, 37-66-306, 37-66-321, 37-66-323, 37-67-312, 37-67-313, 37-67-319, 37-67-331, 37-68-306, 37-68-309, 37-68-321, 37-69-309, 37-69-320, 37-69-322, 39-5-101, 39-5-102, 39-5-103, 39-5-104, 39-5-105, 39-5-201, 39-5-202, 39-5-203, 39-5-204, 39-5-205, 39-5-206, 39-5-207, 39-5-208, 39-5-209, 39-5-301, 39-5-302, 39-5-303, 39-5-304, 39-5-305, 39-5-306, 39-5-307, 39-5-308, 39-5-309, 39-5-310, 39-5-311, 39-5-312, 39-5-401, 39-5-402, 39-5-403, 39-5-404, 39-5-405, and 39-5-406, MCA, are repealed.

NEW SECTION. **Section 129. Codification instruction.** [Sections 1 through ~~20~~ 19] are intended to be codified as an integral part of Title 37, chapter 1.

NEW SECTION. **SECTION 130. COORDINATION INSTRUCTION.** (1) IF SENATE BILL NO. 95 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION THAT AMENDS 37-16-202 AND 37-16-407, THEN [SECTION ~~58~~ 59 OF THIS ACT], AMENDING 37-16-202, IS VOID AND [SECTION 61 OF THIS ACT], AMENDING 37-16-407, IS VOID.

(2) IF SENATE BILL NO. 95 IS PASSED AND APPROVED AND IF IT INCLUDES ~~A SECTION~~ SECTIONS THAT ~~AMENDS~~ AMEND 37-16-406 AND 37-16-411, THEN THE PORTION OF [SECTION ~~127~~ 128] THAT REPEALS 37-16-406 AND 37-16-411 IS VOID.

(3) IF SENATE BILL NO. 171 IS PASSED AND APPROVED AND IF IT INCLUDES SECTIONS THAT AMEND 37-11-307 ~~AND~~, 37-11-309, 37-11-320, AND 37-11-321, THEN THE PORTION OF [SECTION ~~127~~ 128] THAT REPEALS 37-11-307 ~~AND~~, 37-11-309, 37-11-320, AND 37-11-321 IS VOID.

(4) IF HOUSE BILL NO. 148 IS PASSED AND APPROVED AND IF IT INCLUDES SECTIONS THAT AMEND 37-67-312, 37-67-313, AND 37-67-331, THEN THE PORTION OF [SECTION 128] THAT REPEALS 37-67-312, 37-67-313, AND 37-67-331 IS VOID.

(5) IF HOUSE BILL NO. 196 IS PASSED AND APPROVED AND IF IT INCLUDES SECTIONS THAT AMEND 37-47-341 AND 37-47-343, THEN THE PORTION OF [SECTION 128] THAT REPEALS 37-47-341 AND 37-47-343 IS VOID.

(6) IF SENATE BILL NO. 224 IS PASSED AND APPROVED AND IF IT CONTAINS A SECTION THAT AMENDS 37-51-321, THEN THE PORTION OF [SECTION 128] THAT REPEALS 37-51-321 IS VOID.

NEW SECTION. **Section 131. Severability.** If a part of [this act] is invalid, all valid parts that severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 132. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this section].

NEW SECTION. **Section 133. Applicability.** [This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section].

NEW SECTION. **Section 134. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective October 1, 1995.

(2) [Sections ~~20, 21~~ 19, ~~20~~ 21, and this section] are effective on passage and approval for the purpose of drafting rules that will be adopted on or after October 1, 1995, and are effective for all other purposes on October 1, 1995.

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